

Page 3

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Page 2

1  
2  
3  
4  
5           The videotaped deposition of  
6 MICHAEL STEPHEN DORSEY, called by the Plaintiffs  
7 for examination, taken pursuant to the Federal  
8 Rules of Civil Procedure of the United States  
9 District Courts pertaining to the taking of  
10 depositions, taken before CORINNE T. MARUT, C.S.R.  
11 No. 84-1968, Registered Professional Reporter and a  
12 Certified Shorthand Reporter of the State of  
13 Illinois, at the offices of Morgan, Lewis & Bockius  
14 LLP, Suite 500, 77 West Wacker Drive, Chicago,  
15 Illinois, on January 8, 2019, commencing at 9:02  
16 a.m.  
17  
18  
19  
20  
21  
22  
23  
24

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1 APPEARANCES (Continued):  
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Page 7	Page 8
<p>1 INDEX  2 MICHAEL STEPHEN DORSEY EXAMINATION  3 BY MR MELAMED 12  4 BY MR KIEFFER 277  5  6  7 EXHIBITS  8 ALLERGAN-DORSEY EXHIBIT MARKED FOR ID  9 No 1 Plaintiffs' Notice of Oral 17  Videotaped Fact Deposition of  Michael Dorsey  10 No 2 Personnel file; 44  ALLERGAN_MDL_SUPP_0001122 -  11 00001237  12 No 3 2/12/12 e-mail with 71  attachment; ACTAVIS0323261 -  13 0323277  14 No 4 4/19/12 e-mail string with 126  attachment; ACTAVIS0302153 -  15 0302161  16 No 5 4/27/11 e-mail string with 150  attachments;  17 Acquired_Actavis_00485597 -  00485602  18  19 No 6 10/17/11 e-mail string; 154  20 Acquired_Actavis_00486766 -  00486770  21  22  23  24</p>	<p>1 EXHIBITS  2 ALLERGAN-DORSEY EXHIBIT MARKED FOR ID  3 No 7 3/11/11 e-mail string with 171  attachment;  4 ALLERGAN_MDL_01698571 -  01698574  5  6 No 8 2/18/11 e-mail string; 180  Acquired_Actavis_01257892 -  01257893  7  8 No 9 5/23/12 e-mail with 185  attachment;  9 Acquired_Actavis_01825237 -  01825239  10 No 10 3/18/11 e-mail string; 197  Acquired_Actavis_00237627 -  11 00237628  12 No 11 11/11/11 e-mail string; 206  ALLERGAN_MDL_02879204 -  13 02879205  14 No 12 9/26/12 e-mail string; 208  Acquired_Actavis_00096109 -  15 00096110  16 No 13 1/3/13 e-mail string; 218  Acquired_Actavis_00352198 -  17 00352202  18 No 14 e-mail string; 230  Acquired_Actavis_00353871 -  19 00353874  20 No 15 10/29/14 e-mail string; 239  Acquired_Actavis_00248484 -  21 00248489  22  23  24</p>

EXHIBITS

ALLERGAN-DORSEY EXHIBIT MARKED FOR ID

No 16 7/23/15 e-mail string; 249  
Acquired\_Actavis\_00254144 -  
00254146

No 17 7/23/15 e-mail string; 266  
Acquired\_Actavis\_00254149

No 18 10/5/15 e-mail string; 269  
Acquired\_Actavis\_00492349 -  
00492350

No 19 PowerPoint, 287  
TEVA\_MDL\_A\_09134868

No 20 Personnel File; 293  
ALLERGAN\_MDL\_SUPP\_00001122 -  
0000127

No 21 PowerPoint, 329  
TEVA\_MDL\_A\_01439745

No 22 1/25/16 e-mail; 351  
TEVA\_MDL\_A\_01428524 - 01428525

No 23 5/31/16 e-mail; 356  
TEVA\_MDL\_A\_01428583 - 01428584

No 24 12/8/16 e-mail; 357  
TEVA\_MDL\_A\_01436277

No 25 1/4/17 e-mail string; 385  
TEVA\_MDL\_A\_06418852 - 06418855

No 26 Accusation before the State of 391  
California Board of Pharmacy;  
TEVA\_MDL\_A\_02311164 - 02311181

PREVIOUSLY MARKED EXHIBIT REFERRED TO  
Clarke Exhibit 14 - Page 275

THE VIDEOGRAPHER: We are now on the record.

My name is Ben Stanson. I'm a videographer for  
Golkow Technologies.

Today's date is January 8, 2018 (sic),  
and the time is 9:02 a.m.

This video deposition is being held in  
Chicago, Illinois, in the matter of the National  
Prescription Opiate Litigation, MDL No. 2804,  
pending in the U.S. District Court, Northern  
District of Ohio, Eastern Division.

The deponent is Michael Dorsey.

Will counsel please identify yourselves  
for the record.

MR. MELAMED: Good morning. Matt Melamed from  
Robbins, Geller, Rudman & Dowd for the Plaintiffs.

MS. BLACK: Kelli Black, Robbins, Geller,  
Rudman & Dowd.

MR. KIEFFER: Jon Kieffer, Wagstaff &  
Cartmell, for the Teva Plaintiffs.

MR. HYDE: Jack Hyde, Wagstaff & Cartmell, for  
the Teva Plaintiffs.

MR. PUIG: Eliseo Puig, Arnold & Porter, for  
Endo and Par.

MR. COOPER: Kyle Cooper, Tabet DiVito &

Rothstein, on behalf of McKesson Corporation.

MR. DeMONTE: Mark DeMonte on behalf of  
Walmart.

MS. FIX MEYER: Julie Fix Meyer, Armstrong  
Teasdale, on behalf of Cardinal Health.

MR. GHOSH: Pratik Ghosh on behalf of Allergan  
Finance.

MR. ROTH: Martin Roth on behalf of Allergan  
Finance.

MR. SPAHN: Brian Spahn, counsel for  
Mr. Dorsey.

MR. DIAMANTATOS: Tinos Diamantatos with  
Morgan Lewis on behalf of the Teva Defendants.

THE VIDEOGRAPHER: Counsel on the phone, will  
you please introduce yourselves.

MR. SCHOCK: Yes. This is Andrew Schock of  
Jackson Kelly for AmerisourceBergen Drug  
Corporation.

THE VIDEOGRAPHER: Thank you. Our Court  
Reporter is Corinne Marut. Will you please swear  
in the witness.

(WHEREUPON, the witness was duly  
sworn.)

MICHAEL STEPHEN DORSEY,  
called as a witness herein, having been first duly  
sworn, was examined and testified as follows:

EXAMINATION

BY MR. MELAMED:

Q. Good morning, Mr. Dorsey.

A. Good morning.

Q. My name is Matt Melamed. I'm from the  
law firm of Robbins, Geller, Rudman & Dowd, and I  
represent Plaintiffs in this matter.

Can you state your full name and address  
for the record, please.

A. Michael Stephen Dorsey, [REDACTED].

Q. And what is your current occupation?

A. Sales.

Q. And for what company do you currently  
work?

A. Teva Pharmaceutical.

Q. And where is your current work address,  
business address?

A. I work out of my house. That or an  
airplane. So, it would be the same.

Q. You understand you're under oath,

<p style="text-align: right;">Page 13</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Are you taking any medications or is</p> <p>4 there any other reason that you may not be able to</p> <p>5 provide complete and accurate testimony today?</p> <p>6 A. Medications that would affect my thought</p> <p>7 process? No.</p> <p>8 Q. Have you been deposed before?</p> <p>9 A. Yes.</p> <p>10 Q. So you generally understand how</p> <p>11 depositions work?</p> <p>12 A. As best can, yes.</p> <p>13 Q. Okay. I will go over this. If you have</p> <p>14 any questions, you know, if you have any concerns</p> <p>15 about how this is working, you know, we can address</p> <p>16 those.</p> <p>17 A. Okay.</p> <p>18 Q. But if you're asked a question that you</p> <p>19 don't understand, please let me know. It's my job</p> <p>20 to make the questions as clear as I can. And I'll</p> <p>21 try to rephrase it for you.</p> <p>22 A. Okay.</p> <p>23 Q. Please ensure that I -- that you give me</p> <p>24 time to finish my question even if you know where</p>	<p style="text-align: right;">Page 14</p> <p>1 I'm going before you answer.</p> <p>2 A. Okay.</p> <p>3 Q. I will try to do the same for you.</p> <p>4 That's so we create a clear record and make the</p> <p>5 Court Reporter's life as easy as possible. It is</p> <p>6 natural that we will occasionally speak over one</p> <p>7 other conversationally. Please don't take it</p> <p>8 personally if I remind you or somebody else reminds</p> <p>9 you to please pause. Okay?</p> <p>10 A. Okay.</p> <p>11 Q. Again, please answer verbally as opposed</p> <p>12 to shaking your head yes or no so that we have a</p> <p>13 clear record and as well, try to answer with words</p> <p>14 that are easily transcribed, yes and no versus</p> <p>15 uh-huh or uh-uh. Understand?</p> <p>16 A. Yes.</p> <p>17 Q. You mentioned that you had been deposed</p> <p>18 before, correct?</p> <p>19 A. Yes.</p> <p>20 Q. How many times?</p> <p>21 A. One time.</p> <p>22 Q. Do you recall the circumstances of that</p> <p>23 deposition?</p> <p>24 A. It was the -- I believe it was -- I</p>
<p style="text-align: right;">Page 15</p> <p>1 don't know what the legal term was. But it was</p> <p>2 centering around AWP.</p> <p>3 Q. AWP?</p> <p>4 A. Yes.</p> <p>5 Q. I'm sorry. And what is AWP?</p> <p>6 A. Average wholesale price.</p> <p>7 Q. And where were you employed at the time</p> <p>8 of your deposition?</p> <p>9 A. Actavis.</p> <p>10 Q. And is that prior to the transfer of the</p> <p>11 Actavis division you worked for to Teva?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember whether Actavis was a</p> <p>14 party to that litigation? Was it a Plaintiff or a</p> <p>15 Defendant?</p> <p>16 A. The technical component I don't -- I'm</p> <p>17 not sure.</p> <p>18 Q. You testified truthfully in that</p> <p>19 deposition?</p> <p>20 A. Yes.</p> <p>21 Q. Who are the people seated with you</p> <p>22 today?</p> <p>23 A. That were previous introduced</p> <p>24 themselves?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Yes.</p> <p>2 A. Okay. Tinos and then Brian and Marty</p> <p>3 and -- yes. Oh. Hang on. Another from Kirkland.</p> <p>4 Two gentlemen from Kirkland.</p> <p>5 Q. Okay. So, you identified two lawyers</p> <p>6 from Morgan Lewis, two lawyers from Kirkland,</p> <p>7 correct?</p> <p>8 A. No.</p> <p>9 Q. No? I'm sorry.</p> <p>10 A. No. One from Morgan Lewis, Tinos, and</p> <p>11 then Brian is my -- my lawyer, private lawyer, and</p> <p>12 then the last two gentlemen are from Kirkland.</p> <p>13 Q. Understand. And who represents you here</p> <p>14 today?</p> <p>15 A. For this litigation --</p> <p>16 Q. Yes.</p> <p>17 A. -- piece?</p> <p>18 Q. For the purposes of your deposition in</p> <p>19 this litigation.</p> <p>20 A. Tinos.</p> <p>21 Q. I'm sorry?</p> <p>22 A. I would believe it's Tinos with any --</p> <p>23 yeah.</p> <p>24 Q. I'm handing you what's been marked as</p>

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1 Exhibit 1.  
 2 (WHEREUPON, a certain document was  
 3 marked as Allergan-Dorsey Exhibit  
 4 No. 1: Plaintiffs' Notice of Oral  
 5 Videotaped Fact Deposition of  
 6 Michael Dorsey.)  
 7 MR. MELAMED: For counsel on the phone, the  
 8 Elmo is currently down. We hope to get it up  
 9 shortly. Exhibit 1 is the Plaintiff notice of --  
 10 oral videotaped fact deposition of Michael Dorsey.  
 11 BY MR. MELAMED:  
 12 Q. Have you seen this document before,  
 13 Mr. Dorsey?  
 14 A. Yes. I believe so, yes.  
 15 Q. When did you -- when do you recall first  
 16 seeing it?  
 17 A. It was in '18. I'm -- this has the  
 18 actual date. I'm not exactly sure when -- when I  
 19 saw it, if I did. Because this is just in essence  
 20 spelling out when the videotape is taking place,  
 21 correct?  
 22 Q. I can't answer your questions today.  
 23 A. Oh, okay. I'm sorry.  
 24 Q. That's fair enough.

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1 BY THE WITNESS:  
 2 A. I would have -- seek counsel's feedback  
 3 on that.  
 4 BY MR. MELAMED:  
 5 Q. And just -- you answered that  
 6 appropriately and counsel will be sure to object if  
 7 there is a privilege issue, but I want to let you  
 8 know I'm not seeking privileged information, you  
 9 know. We can discuss if there is an issue. But  
 10 thank you for noting -- for not going beyond the  
 11 fact that you would seek --  
 12 A. Okay.  
 13 Q. -- counsel's advice.  
 14 What did you do to prepare for today's  
 15 deposition?  
 16 A. Really just reviewed some -- some  
 17 previous or just some e-mails.  
 18 Q. Did you do that on your own?  
 19 A. I --  
 20 Q. Did you review them on your own?  
 21 A. No.  
 22 Q. You reviewed them in the presence of  
 23 counsel?  
 24 A. Yes.

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1 A. I'm sorry.  
 2 Q. You saw this, is it accurate to say you  
 3 saw this more than -- earlier than this past week?  
 4 A. I -- you know what? I don't know for  
 5 100 percent certainty at this -- at this time. It  
 6 was a long time, yes. I don't know how else to  
 7 answer it.  
 8 Q. You understand that this is the document  
 9 concerning -- that notices your deposition here  
 10 today?  
 11 A. Yes.  
 12 Q. Okay. Did you bring any documents with  
 13 you today?  
 14 A. No, I did not.  
 15 Q. Did you provide any documents to your  
 16 attorneys relating to this litigation?  
 17 MR. DIAMANTATOS: Objection.  
 18 BY THE WITNESS:  
 19 A. No, I did not.  
 20 BY MR. MELAMED:  
 21 Q. If called to testify in a trial in this  
 22 case, would you be willing to appear in the  
 23 Northern District of Ohio?  
 24 MR. DIAMANTATOS: Objection; form.

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1 Q. Were they identified by counsel for you?  
 2 MR. DIAMANTATOS: Objection. As to his  
 3 preparation process with counsel, I'm not going to  
 4 let him answer those questions. You can ask him  
 5 what he did to prepare but not what we specifically  
 6 did with him to prepare.  
 7 MR. MELAMED: I'm not asking him anything  
 8 about the identity of the documents. Just whether  
 9 they were identified by you. Is your objection  
 10 going to stand?  
 11 MR. DIAMANTATOS: My objection is going to  
 12 stand.  
 13 MR. MELAMED: Okay.  
 14 BY MR. MELAMED:  
 15 Q. And are you going to choose to follow --  
 16 A. Yes.  
 17 Q. -- your attorney's advice?  
 18 A. Yes.  
 19 Q. Approximately how many documents did you  
 20 review?  
 21 A. More than ten, less than -- I don't  
 22 know -- 40, 30.  
 23 Q. Did you meet with counsel in person to  
 24 prepare for today's deposition?

<p style="text-align: right;">Page 21</p> <p>1 A. Yes.</p> <p>2 Q. And that was with Tinos?</p> <p>3 A. Yes.</p> <p>4 Q. With any other -- were any other people</p> <p>5 in the room when you met to prepare?</p> <p>6 A. Yeah, the two gentlemen from Kirkland.</p> <p>7 Q. Did you prepare -- other than preparing</p> <p>8 in person, did you prepare over the phone? Did you</p> <p>9 have any phone conversations in preparation for</p> <p>10 today's deposition?</p> <p>11 A. No.</p> <p>12 Q. How many times did you meet in person to</p> <p>13 prepare for today's deposition?</p> <p>14 A. We had one -- one meeting.</p> <p>15 Q. When did that occur?</p> <p>16 A. Yesterday.</p> <p>17 Q. About how long did you prepare?</p> <p>18 A. It wasn't a full workday. Six, six</p> <p>19 hours maybe. I'm not sure.</p> <p>20 Q. Did you review any deposition testimony</p> <p>21 from this case from other deponents?</p> <p>22 A. No.</p> <p>23 Q. Did you review any expert reports or</p> <p>24 memoranda?</p>	<p style="text-align: right;">Page 22</p> <p>1 A. No.</p> <p>2 Q. Did you review any court documents that</p> <p>3 you -- to the extent you're aware, any filings in</p> <p>4 this case made by either party?</p> <p>5 A. No.</p> <p>6 Q. Did you review any databases, access any</p> <p>7 databases that may record -- have recorded</p> <p>8 information pertaining to this litigation?</p> <p>9 A. No.</p> <p>10 MR. DIAMANTATOS: Objection; form.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. I didn't do this part during the</p> <p>13 introduction of the deposition, but you understand</p> <p>14 that from time to time counsel may interject</p> <p>15 objections and regardless of the objection, you</p> <p>16 still are required to answer the question if you</p> <p>17 can.</p> <p>18 A. Okay.</p> <p>19 Q. Understood?</p> <p>20 Did you look in your own personal paper</p> <p>21 or electronic files to identify any documents that</p> <p>22 might be relevant to this litigation?</p> <p>23 MR. DIAMANTATOS: Objection; form.</p> <p>24 BY THE WITNESS:</p>
<p style="text-align: right;">Page 23</p> <p>1 A. No.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. You said this already. I just want to</p> <p>4 be clear.</p> <p>5 During your in-person preparation there</p> <p>6 were three other individuals present, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Two lawyers from Kirkland and one from</p> <p>9 Morgan Lewis, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Are you being represented by the lawyers</p> <p>12 from Kirkland in this litigation?</p> <p>13 A. When you say "represented," again, it's</p> <p>14 not my everyday. So, when you say "represented,"</p> <p>15 can you help me better understand what that --</p> <p>16 Q. I can try and rephrase it.</p> <p>17 A. Okay.</p> <p>18 Q. Who -- how did you choose who is going</p> <p>19 to represent you here today?</p> <p>20 A. Morgan Lewis is Teva's legal counsel and</p> <p>21 Kirkland is Allergan, Allergan, which used to be</p> <p>22 the owner of Actavis, legal counsel.</p> <p>23 Q. And were you given the choice of who</p> <p>24 would represent you here today?</p>	<p style="text-align: right;">Page 24</p> <p>1 A. There was -- I guess you could say yes,</p> <p>2 if I did not like who I -- who was being</p> <p>3 represented.</p> <p>4 Q. But you had no problem with it?</p> <p>5 A. Correct.</p> <p>6 Q. Can you just help me understand the</p> <p>7 process by which that happened.</p> <p>8 Did Teva -- did somebody at Teva state</p> <p>9 to you, "Morgan Lewis is our counsel for this</p> <p>10 litigation," and make them available to you to</p> <p>11 represent you in this deposition?</p> <p>12 MR. DIAMANTATOS: Objection to the question to</p> <p>13 the extent it calls for advice from in-house legal</p> <p>14 counsel to the witness.</p> <p>15 BY MR. MELAMED:</p> <p>16 Q. Was the -- let me start with a</p> <p>17 predecessor question to that.</p> <p>18 A. Okay.</p> <p>19 Q. Were you provided advice by in-house</p> <p>20 counsel at your current employer about who should</p> <p>21 represent you in this -- in this deposition?</p> <p>22 MR. DIAMANTATOS: I'm going to object and</p> <p>23 instruct the witness not to answer about what, if</p> <p>24 anything, he was told by in-house counsel at Teva.</p>



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1 MR. MELAMED: Not asking what he was --  
 2 MR. DIAMANTATOS: Your question isn't clean  
 3 enough and the witness is going to trip up on that  
 4 and answer a question and go into the subject  
 5 matter.  
 6 I don't know why we're wasting time with  
 7 this line of questioning, but I am going to object  
 8 and tell the witness not to answer any questions  
 9 about what he was told, in-house counsel advising  
 10 him or not advising him about this case and his  
 11 representation.  
 12 BY MR. MELAMED:  
 13 Q. As a question of yes or no, did Teva  
 14 identify to you, anyone at Teva identify to you,  
 15 that Morgan Lewis was available to represent you in  
 16 this deposition?  
 17 MR. DIAMANTATOS: Same objection.  
 18 BY MR. MELAMED:  
 19 Q. Are you going to follow counsel's  
 20 advice?  
 21 A. I'm going to follow counsel's advice.  
 22 Q. Did you speak to anyone at your current  
 23 employer about this deposition once you received  
 24 the Notice?

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1 preparation for your deposition?  
 2 A. No.  
 3 Q. Did you speak to anyone at Allergan or  
 4 any of its previous -- previously named  
 5 predecessors in preparation for today's deposition?  
 6 MR. DIAMANTATOS: Objection to form.  
 7 BY THE WITNESS:  
 8 A. No, I did not.  
 9 BY MR. MELAMED:  
 10 Q. Did you speak to anybody aside from  
 11 counsel sitting with you today in preparation for  
 12 your deposition?  
 13 A. Say it one more time.  
 14 Q. Did you speak -- in preparation for  
 15 today's deposition --  
 16 A. Oh, prep. Okay, okay.  
 17 Q. -- did you speak to anybody aside from  
 18 the people sitting with you today?  
 19 A. In preparation, no.  
 20 Q. Did you discuss what you expected to  
 21 testify about with anybody other than counsel  
 22 sitting here with you today?  
 23 A. So, the question -- did I discuss with  
 24 anyone what I thought was going to happen?

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1 MR. DIAMANTATOS: Objection to the extent it  
 2 calls for conversations with in-house legal  
 3 counsel.  
 4 BY MR. MELAMED:  
 5 Q. You can answer. Or unless -- I'm  
 6 unclear about the objection. My only --  
 7 MR. DIAMANTATOS: If you could rephrase the  
 8 question to include that caveat, then perhaps I  
 9 won't object but I'll have to hear the question.  
 10 If you could rephrase it.  
 11 BY MR. MELAMED:  
 12 Q. It's a yes-or-no question. Did you  
 13 speak to anyone at your current employer about this  
 14 deposition once you received the Notice?  
 15 MR. DIAMANTATOS: Same objection. Absent  
 16 in-house legal counsel. You should be clear who  
 17 you are talking about. Anyone at his employer  
 18 covers a lot of people.  
 19 BY MR. MELAMED:  
 20 Q. Let me start in this way. Did you speak  
 21 to in-house counsel, yes or no, at Teva in  
 22 preparation for your deposition?  
 23 A. No.  
 24 Q. Did you speak to anybody else at Teva in

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1 Q. Um-hmm.  
 2 MR. DIAMANTATOS: Object to the form of the  
 3 question.  
 4 BY THE WITNESS:  
 5 A. No, not that I'm -- no.  
 6 BY MR. MELAMED:  
 7 Q. Did you speak to any family members  
 8 about your appearance here today?  
 9 MR. DIAMANTATOS: Objection; asked and  
 10 answered.  
 11 BY THE WITNESS:  
 12 A. Well, my wife.  
 13 BY MR. MELAMED:  
 14 Q. And did you tell her anything about what  
 15 you expected the testimony to cover?  
 16 A. Well, she knows the -- what the overall  
 17 umbrella is, but that's -- that's it.  
 18 Q. Did you talk to her about any  
 19 conversations you had with your attorneys?  
 20 A. No.  
 21 Q. Are you being reimbursed by anyone for  
 22 your expenses in connection with today's  
 23 deposition?  
 24 A. Like food and hotel?

<p style="text-align: right;">Page 29</p> <p>1 Q. Are you being -- any expenses in</p> <p>2 connection with today's deposition?</p> <p>3 A. Well, the -- yes.</p> <p>4 Q. By whom?</p> <p>5 A. Teva.</p> <p>6 Q. And what did those expenses include?</p> <p>7 A. Hotel, food and train.</p> <p>8 Q. Are you being compensated for any time</p> <p>9 taken to prepare for today's deposition?</p> <p>10 A. No.</p> <p>11 Q. You can put Exhibit 1 aside. You should</p> <p>12 keep those, however, because those will be the</p> <p>13 official --</p> <p>14 A. Okay.</p> <p>15 Q. -- deposition copies. And we may go</p> <p>16 back to certain exhibits from time to time.</p> <p>17 You have an undergraduate degree from</p> <p>18 the University of Minnesota Duluth, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And that's in economics and computer</p> <p>21 science?</p> <p>22 A. Yes.</p> <p>23 Q. Double major?</p> <p>24 A. Major-minor.</p>	<p style="text-align: right;">Page 30</p> <p>1 Q. Major in economics?</p> <p>2 A. Major, yes.</p> <p>3 Q. And minor in computer science?</p> <p>4 A. Yes.</p> <p>5 Q. You received your Bachelor of Arts for</p> <p>6 the major in economics, correct?</p> <p>7 A. Yes.</p> <p>8 Q. What year did you graduate?</p> <p>9 A. 1987.</p> <p>10 Q. What employment did you have after</p> <p>11 graduation?</p> <p>12 A. That was a struggling time. It was</p> <p>13 multiple part-time jobs, trying to find what I</p> <p>14 wanted to be in life. I was a computer programmer.</p> <p>15 After a year I determined that wasn't -- wasn't</p> <p>16 what I needed, wasn't fulfilling my -- my lifelong</p> <p>17 dream.</p> <p>18 So, I eventually -- I think after three</p> <p>19 years of a lot of struggles, went and found --</p> <p>20 after my third attempt, I got a job at Russ Berrie,</p> <p>21 which is a stuffed animals and toys. So, yes, I</p> <p>22 was selling teddy bears for about three and a half</p> <p>23 years all over the Dakotas, and I knew I wanted to</p> <p>24 get back to the Twin Cities.</p>
<p style="text-align: right;">Page 31</p> <p>1 So, I used some of my networking folks I</p> <p>2 may have known to get into the pharmaceutical</p> <p>3 business, and that's how I finally landed the job</p> <p>4 at Schwartz Pharma.</p> <p>5 Q. Okay. And when did you land the job at</p> <p>6 Schwartz Pharma?</p> <p>7 A. Maybe 25 years ago. So, was that '94?</p> <p>8 No. '92?</p> <p>9 Q. And --</p> <p>10 A. I'd --about 25 years ago.</p> <p>11 Q. You worked at Schwartz Pharma until</p> <p>12 2007, is that right?</p> <p>13 A. If that's the year that UCB bought</p> <p>14 Schwartz Pharma and Kremers Urban, then yes.</p> <p>15 Q. I'm sorry. If that's the year?</p> <p>16 A. If that's the year that UCB bought</p> <p>17 Schwartz Pharma and Kremers Urban, then yes. It</p> <p>18 coincided with that.</p> <p>19 Q. What's UCB?</p> <p>20 A. A pharmaceutical company.</p> <p>21 Q. Is it an acronym? Does it stand for</p> <p>22 something or is it --</p> <p>23 A. It's Belgium. It does, but I don't</p> <p>24 know.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Okay. And did you leave Schwartz Pharma</p> <p>2 and Kremers Urban at the time UCB acquired them?</p> <p>3 A. Yes.</p> <p>4 Q. What was the purpose for your -- why did</p> <p>5 you leave at that point?</p> <p>6 A. The direction that we felt that they</p> <p>7 were going to take the -- they were a brand</p> <p>8 company. So, the direction we felt they were</p> <p>9 taking it and information they were sharing with us</p> <p>10 is that it was not going to last. So, we opted not</p> <p>11 to -- I opted not to move on, and seek employment</p> <p>12 elsewhere.</p> <p>13 Q. So, it was by choice?</p> <p>14 A. Yes.</p> <p>15 Q. During your time at -- well, let me step</p> <p>16 back.</p> <p>17 You've referred to both Schwartz Pharma</p> <p>18 and Kremers Urban?</p> <p>19 A. Yes.</p> <p>20 Q. Are those two separate companies?</p> <p>21 A. They're one and the same. So, Schwartz</p> <p>22 Pharma is the -- think of it as the brand arm and</p> <p>23 then Kremers Urban is the generic, generic arm.</p> <p>24 Q. And which of those did you work for?</p>



<p style="text-align: right;">Page 33</p> <p>1 A. Both.</p> <p>2 Q. Can you take me through your roles at</p> <p>3 Schwartz Pharma and Kremers Urban until you left?</p> <p>4 A. I'm sorry. I blanked out. What was the</p> <p>5 question?</p> <p>6 Q. Can you take me through your different</p> <p>7 positions that you held --</p> <p>8 A. Take you through it.</p> <p>9 Q. -- at those two companies.</p> <p>10 A. Multiple roles. Would be calling on</p> <p>11 physicians, and then it was more kind of liaison</p> <p>12 between, what they call a managed care liaison, so</p> <p>13 kind of understanding, working with the district</p> <p>14 managers and the reps, trying to understand their</p> <p>15 territories.</p> <p>16 And then went into a managed care role</p> <p>17 and then after that, there was a -- afforded the</p> <p>18 opportunity to go over to just Kremers Urban</p> <p>19 specifically.</p> <p>20 Actually, no, it would have been -- it</p> <p>21 would have been both. Then I was going to -- moved</p> <p>22 from managed care over to trade but supporting the</p> <p>23 brand, brand stockings for the reps and then as</p> <p>24 well as generic pharmaceuticals.</p>	<p style="text-align: right;">Page 34</p> <p>1 Q. Did Schwartz Pharma or Kremers Urban</p> <p>2 ever sell opioid prescription drugs?</p> <p>3 A. Best of my knowledge, no.</p> <p>4 Q. You do not recall that you ever --</p> <p>5 A. Correct.</p> <p>6 Q. Or your recollection is that you never</p> <p>7 sold anything related to opioids, is that correct?</p> <p>8 A. I --</p> <p>9 MR. DIAMANTATOS: Objection; form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. Best of my -- best of my knowledge, we</p> <p>12 did not have that in our portfolio.</p> <p>13 BY MR. MELAMED:</p> <p>14 Q. I want to understand a little bit more</p> <p>15 some of the specific roles you mentioned.</p> <p>16 A. Okay.</p> <p>17 Q. First you talked about calling on</p> <p>18 physicians?</p> <p>19 A. Um-hmm.</p> <p>20 Q. Was that -- were those detailing visits?</p> <p>21 A. Yes.</p> <p>22 Q. And for specific drugs or for the</p> <p>23 entirety of the drug portfolio available through</p> <p>24 Schwartz and Kremers?</p>
<p style="text-align: right;">Page 35</p> <p>1 A. Specific.</p> <p>2 Q. Do you recall what specific drugs they</p> <p>3 were?</p> <p>4 A. The tag -- well, it's -- in essence</p> <p>5 heart products, heart, gut and butt. So, it was</p> <p>6 irritable bowel syndrome or unstable bladder or</p> <p>7 angina. So, in those realms.</p> <p>8 Q. And then you said then it was more kind</p> <p>9 of liaison between what they called a managed care</p> <p>10 liaison. Was that a promotion?</p> <p>11 A. Yes.</p> <p>12 Q. And can you explain what you -- what</p> <p>13 your role was as a managed care liaison in a little</p> <p>14 bit more detail?</p> <p>15 A. It was newly created. So, it was a</p> <p>16 draft in work. But primarily it was helping the</p> <p>17 district managers and the representatives kind of</p> <p>18 understanding their -- their -- I guess their --</p> <p>19 their docs, their territories a little better and</p> <p>20 just trying to help them manage it, manage it</p> <p>21 better, be more efficient.</p> <p>22 Q. Then you said you moved from managed</p> <p>23 care over to trade and supporting the brand, brand</p> <p>24 stocking for the reps and then generic</p>	<p style="text-align: right;">Page 36</p> <p>1 pharmaceuticals?</p> <p>2 A. So, sorry. I may have missed a step.</p> <p>3 So, managed care liaison. Then it was managed</p> <p>4 care. So, that was calling on, you know, your</p> <p>5 managed care facilities. And then after that, then</p> <p>6 it was the trade -- trade only, but supporting</p> <p>7 brand as well as generics.</p> <p>8 Q. What do you mean by calling on managed</p> <p>9 care facilities?</p> <p>10 A. So, managed care, you've probably heard</p> <p>11 of United Healthcare, Blue Cross Blue Shield, those</p> <p>12 plans. There's formularies for -- in the brand</p> <p>13 world that they will -- you're in essence -- your</p> <p>14 products they want to have -- sometimes they'll</p> <p>15 have clinical reviews and in order to have the</p> <p>16 product listed on the formulary.</p> <p>17 So, that's why you as a consumer when</p> <p>18 you go to get your prescription at the pharmacy,</p> <p>19 sometimes your brand could be a preferred brand or</p> <p>20 a non-preferred brand and you're paying more.</p> <p>21 Q. And so your role was to call on these</p> <p>22 managed care organizations that you mentioned to</p> <p>23 try to get Schwartz and Kremers' drugs on their</p> <p>24 formularies?</p>

1 MR. DIAMANTATOS: Objection to form.  
 2 BY THE WITNESS:  
 3 A. Kremers is generics. Generics is not  
 4 really a -- that's not really a functionality.  
 5 It's driven differently. So, on the brand side, if  
 6 there was a product -- some products didn't need --  
 7 they didn't need review. Some products they wanted  
 8 to have more clinical data. So, you would bring in  
 9 your clinical folks and have that conversation and  
 10 then you talk to them about the economic piece.  
 11 BY MR. MELAMED:  
 12 Q. Did your managed care visits concern  
 13 generic drugs at all?  
 14 A. No.  
 15 Q. And then after you left or you -- was  
 16 the transition from managed care to what you said,  
 17 trade only, was that a promotion?  
 18 A. How do you define promotion? It was a  
 19 change. I don't remember if there was any change  
 20 in compensation or not.  
 21 Q. Was it a change that you made by choice?  
 22 A. I was -- I was picked or chosen I guess.  
 23 Q. And what were your responsibilities when  
 24 you went to what you called trade?

1 A. Yes.  
 2 Q. And you were hired in 2007 to be  
 3 director of national accounts?  
 4 A. Yeah, I guess -- is that -- yeah, '7 I  
 5 guess it would have been.  
 6 Q. What was your role as director of  
 7 national accounts at Actavis?  
 8 A. Very similar outside of -- for the most  
 9 part. With Actavis it was, best of my  
 10 recollection, was primarily just generics. So, it  
 11 was helping launch, launch products with a -- you  
 12 know, to a less expensive version of the brand into  
 13 the -- into the marketplace, calling on chain  
 14 drugstores, corporates, corporates as well as  
 15 wholesaler.  
 16 Q. What do you mean "corporates as well as  
 17 wholesaler"?  
 18 A. Well, I'm sorry. So, corporate, for  
 19 instance, corporate entities, a Walgreens or a CVS,  
 20 a corporate headquarters as opposed to all 8,000  
 21 stores or 10,000 stores.  
 22 Q. And just to be clear, when you were  
 23 director -- when you hired on as director of  
 24 national accounts when you first started working at

1 A. The trade, so on the brand side, it was  
 2 helping out the -- as far as if the patients were  
 3 going into the pharmacies and not able to get a --  
 4 get the medications that the physician felt was the  
 5 right medication for them, supporting the sales  
 6 force with, okay, here's the item numbers at the  
 7 particular wholesaler, trying to help them through  
 8 so that the patient could get what the physician  
 9 felt was their best choice to help them with their  
 10 ailment.  
 11 On the generic side, it was -- I think  
 12 at that time we were launching the -- that was the  
 13 largest -- largest generic in the world at the time  
 14 was omeprazole, so it would have been Prilosec.  
 15 So, we just received approval and there was three  
 16 of us that were having to manage that throughout  
 17 the entire country.  
 18 Q. And you left -- you said you left by  
 19 choice Kremers and Schwartz?  
 20 A. Yeah.  
 21 Q. When they were acquired by UCB, right?  
 22 A. Correct.  
 23 Q. And you -- at that point you applied to  
 24 Actavis, correct?

1 Actavis, did you call solely on the corporate  
 2 entities of -- of companies like Walgreens or did  
 3 you also call on individual pharmacies?  
 4 MR. DIAMANTATOS: Objection; form.  
 5 BY THE WITNESS:  
 6 A. It's a corporate function. So,  
 7 corporately.  
 8 BY MR. MELAMED:  
 9 Q. Did you have any -- did you call on any  
 10 individual pharmacies?  
 11 MR. DIAMANTATOS: Objection; form.  
 12 BY THE WITNESS:  
 13 A. No.  
 14 BY MR. MELAMED:  
 15 Q. Did you have a specific portfolio of  
 16 generic drugs that you were responsible for when  
 17 you were hired in your initial role as director of  
 18 national accounts at Actavis?  
 19 A. Everyone was responsible for the same  
 20 portfolio products. It's just you -- the only  
 21 differentiation was the accounts that you called  
 22 on.  
 23 Q. So, the -- everybody -- is it fair to  
 24 say everybody was responsible for all of Actavis'

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1 generic drugs?  
 2 MR. DIAMANTATOS: Objection; form.  
 3 BY THE WITNESS:  
 4 A. Outside of anything I can think of right  
 5 now? For the most part, yes.  
 6 BY MR. MELAMED:  
 7 Q. And so your portfolio included Actavis'  
 8 generic opioids, is that correct?  
 9 A. There was -- that was amongst the other  
 10 products that we had, yes.  
 11 Q. And then have you -- since being hired  
 12 in 2007 at Actavis before you transitioned to  
 13 Teva --  
 14 A. Yep.  
 15 Q. -- were you -- did you ever change  
 16 roles?  
 17 A. No. Did not.  
 18 Q. So, you remained director of national  
 19 accounts the entire time?  
 20 A. Yes.  
 21 Q. Do you recall who you reported to when  
 22 you were first hired?  
 23 A. Mike Perfetto.  
 24 Q. And did that reporting hierarchy remain

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1 the same throughout the entirety of your time at  
 2 Actavis, at Actavis prior to the transition to  
 3 Teva?  
 4 A. I think so. I believe so.  
 5 Q. And when the Actavis generic entities  
 6 were acquired by Teva, did your role change? Did  
 7 you remain director of national accounts?  
 8 A. Yes.  
 9 Q. And are you still director of national  
 10 accounts?  
 11 A. Yes.  
 12 Q. And who do you report to -- who did you  
 13 report to when you first transitioned over to Teva?  
 14 MR. DIAMANTATOS: Objection; form.  
 15 BY THE WITNESS:  
 16 A. Would have been -- I don't know if it  
 17 was -- oh. So, under -- so, after Teva, after we  
 18 closed with Teva?  
 19 BY MR. MELAMED:  
 20 Q. Yes.  
 21 A. After Teva -- okay.  
 22 Mark -- Mark Falcon.  
 23 Q. And is that who you currently report to?  
 24 A. No.

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1 Q. Who do you currently report to?  
 2 A. Oh, geez. I'm drawing a blank. Sorry.  
 3 We just had another change. Oh, my God. Sorry.  
 4 I'm not used to having all these eyes on me.  
 5 Pat. Macintosh. Sorry. Pat Macintosh.  
 6 Q. And before Pat Macintosh who did you  
 7 report to?  
 8 A. Before?  
 9 Q. Um-hmm.  
 10 A. Would have been Mark. Oh, no. I'm  
 11 sorry. It would have been Chris. Oh, God. Chris,  
 12 Chris. He's a Phillies fan.  
 13 It's escaping me right now, but his  
 14 first name is Chris.  
 15 Q. Since Actavis moved over -- the Actavis  
 16 generic entities moved over to Teva when the  
 17 acquisition closed, how many different individuals  
 18 have you reported to?  
 19 MR. DIAMANTATOS: Objection; form.  
 20 BY THE WITNESS:  
 21 A. Three. Three.  
 22 BY MR. MELAMED:  
 23 Q. Has the accounts you are responsible for  
 24 starting in 2007 changed over time? Have they

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1 changed between 2007 and today?  
 2 A. Yes.  
 3 Q. Are there certain accounts that have  
 4 remained under your -- within your responsibility  
 5 for that entirety of that time?  
 6 A. I don't -- from 2007 till now?  
 7 Q. Um-hmm.  
 8 A. I don't believe so.  
 9 Q. Did you gain new accounts -- let me  
 10 withdraw that.  
 11 I'm going to hand you what's been marked  
 12 Exhibit 2.  
 13 (WHEREUPON, a certain document was  
 14 marked as Allergan-Dorsey Exhibit  
 15 No. 2: Personnel file;  
 16 ALLERGAN\_MDL\_SUPP\_0001122 -  
 17 00001237.)  
 18 MR. MELAMED: For the record Exhibit 2 is the  
 19 personnel file that was produced in this action for  
 20 Mr. Dorsey. It starts at Allergan\_MDL\_SUPP,  
 21 SUPP\_00001122 and concludes at 1237.  
 22 BY MR. MELAMED:  
 23 Q. There's a lot of documents in here. And  
 24 as you'll notice, it's four documents per page and

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1 double-sided. So, there is a lot of stuff. I just  
2 want to draw your attention to very specific pages  
3 in this.

4 If you could turn to the page that  
5 has -- do you understand what I'm talking about  
6 when I mention Bates numbers?

7 A. Lower right?

8 Q. Yeah.

9 A. Yeah, yeah.

10 Q. It's actually the lower right of each  
11 because there's four pages of each per page.

12 A. I got you. All right.

13 Q. If you could turn to the Bates number  
14 ending 1177. And you see it says "Confidential,  
15 Actavis, Fiscal 2007, Bonus Program"?

16 A. Yes.

17 Q. And if you look to 1174, so on the same  
18 physical page.

19 A. Oh.

20 Q. You'll see that this is an e-mail from  
21 somebody named Ellen Predham to Michael Perfetto,  
22 and it's talking about enclosing the fiscal -- the  
23 Actavis fiscal bonus program with the offer to you.

24 Do you see that?

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1 A. Yep, yes.

2 Q. So, returning to 1177, was this the  
3 fiscal bonus program that was part of your  
4 compensation for fiscal 2007?

5 A. Based upon what's written here, that's  
6 where it's pulled from, then yes.

7 Q. If you turn the page to 1178, this --  
8 and you see it says, "Individual Territory Budget  
9 for All Actavis Current In-Line Products" and then  
10 "National Net Sales Budget for All Territories for  
11 Current In-Line and New Products" and "Individual  
12 Budget for Focus Products."

13 Do you see that?

14 A. Yes.

15 Q. And were those the three elements of  
16 your incentive, your bonus incentive compensation?

17 MR. DIAMANTATOS: Objection; form.

18 BY THE WITNESS:

19 A. This far out, I'm -- I'm not -- I guess  
20 it's not pulling any -- like, remembering, oh,  
21 yeah, this was it. However, if -- if this was, you  
22 know, pulled from that document, how it was broken  
23 out, then we have to follow.

24 BY MR. MELAMED:

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1 Q. So, of the fiscal 2007 bonus, the first,  
2 it says a maximum payment of up to 40% of that  
3 bonus is based on each individual account  
4 representative achieving sales quotas for current  
5 in-line products, and that was based on net sales.

6 Do you see that?

7 MR. ROTH: Object to form.

8 (Clarification requested by the  
9 reporter.)

10 MR. MELAMED: Somebody said "Object to form."

11 MR. DIAMANTATOS: Objection to form.

12 MR. ROTH: Objection to form.

13 BY THE WITNESS:

14 A. So, do I -- do I see what's in that  
15 first paragraph that you read off? Yes.

16 BY MR. MELAMED:

17 Q. And do you have any reason to believe  
18 that that's inaccurate?

19 MR. DIAMANTATOS: Objection; form.

20 BY THE WITNESS:

21 A. Well, you're reading it word for word,  
22 so I have to think that it's accurate based upon  
23 what we're looking at.

24 BY MR. MELAMED:

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1 Q. Okay. So, 40% of your bonus  
2 compensation as described in this plan was based on  
3 your performance versus the sales quota for your  
4 individual current in-line products, correct?

5 MR. DIAMANTATOS: Objection; form.

6 BY THE WITNESS:

7 A. It says a maximum amount of 40% based  
8 upon all in-line products, current in-line  
9 products, yes.

10 BY MR. MELAMED:

11 Q. And there's a caveat that starts with  
12 "Additionally." It says, "Additionally, an  
13 indirect sales goal will be developed for indirect  
14 sales for each account representative. The degree  
15 of importance for direct and indirect goals will  
16 vary by sales rep."

17 Do you see that?

18 MR. DIAMANTATOS: Objection; form.

19 BY THE WITNESS:

20 A. Yes, I see that.

21 BY MR. MELAMED:

22 Q. Can you describe what the difference is  
23 between a -- can you describe what's meant by an  
24 indirect sales goal?

<p style="text-align: right;">Page 49</p> <p>1 MR. DIAMANTATOS: Objection; form, foundation.</p> <p>2 BY THE WITNESS:</p> <p>3 A. So, indirect is basically it's what --</p> <p>4 it spells out what it is.</p> <p>5 So, a customer that buys it from, for</p> <p>6 instance, another wholesaler. So they don't have a</p> <p>7 warehouse, so they will buy it from a wholesaler.</p> <p>8 It's an indirect purchase because it's going from</p> <p>9 the wholesaler to the retailer.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. And then the next, if you continue down</p> <p>12 to the next bold header on this, on page 1178, it</p> <p>13 says, "National Net Sales Budget for All</p> <p>14 Territories for Current In-Line and New Products."</p> <p>15 The first sentence there says, "Maximum</p> <p>16 payout up to 40%, per half of annual bonus, is</p> <p>17 based on USHP Actavis achieving net sales quotas</p> <p>18 for current in-line products and new products."</p> <p>19 What does -- do you know what USHP</p> <p>20 Actavis means?</p> <p>21 A. It's -- no, it's not coming to mind.</p> <p>22 Q. Okay. Do you understand this to mean</p> <p>23 that your -- 40% of your bonus was based on</p> <p>24 Actavis' performance in achieving its net sales</p>	<p style="text-align: right;">Page 50</p> <p>1 quotas for current in-line products and new</p> <p>2 products?</p> <p>3 MR. DIAMANTATOS: Objection; form, foundation.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I see this as a group, a family, working</p> <p>6 together as a team as far as bonus.</p> <p>7 BY MR. MELAMED:</p> <p>8 Q. So, going back over the two sections</p> <p>9 we've discussed, the first section is 40% of your</p> <p>10 total bonus amount is based on your individual</p> <p>11 performance versus your sales goals, correct?</p> <p>12 MR. DIAMANTATOS: Objection; form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. Yes, I would believe that was correct,</p> <p>15 yes.</p> <p>16 BY MR. MELAMED:</p> <p>17 Q. And then 40% was based on the Actavis</p> <p>18 group's performance versus its sales goals?</p> <p>19 MR. DIAMANTATOS: Objection; form.</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. Is that your understanding?</p> <p>22 MR. DIAMANTATOS: Objection; form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. The understanding would be that it is a</p>
<p style="text-align: right;">Page 51</p> <p>1 team, kind of a team component versus individual.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. Okay. So, 40% individual and 40% team?</p> <p>4 MR. DIAMANTATOS: Objection; form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. Yes, as it's laid out here.</p> <p>7 BY MR. MELAMED:</p> <p>8 Q. And then there's a third element which</p> <p>9 is, "A maximum payout up to 20%, per half of annual</p> <p>10 bonus, based on each account representative's</p> <p>11 success of achieving prime placement of the</p> <p>12 designated half year focus products."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. That would be the final -- is it your</p> <p>16 understanding that that would be the final</p> <p>17 component of your bonus calculation?</p> <p>18 MR. DIAMANTATOS: Objection; form, foundation.</p> <p>19 BY THE WITNESS:</p> <p>20 A. If doing the math, yes, I think it's --</p> <p>21 it gets us to 100.</p> <p>22 BY MR. MELAMED:</p> <p>23 Q. Do you recall who was responsible for</p> <p>24 identifying the focus products that are referred to</p>	<p style="text-align: right;">Page 52</p> <p>1 in that final paragraph during your time at</p> <p>2 Actavis?</p> <p>3 A. Specifically, no.</p> <p>4 Q. Do you recall -- I'm sorry. Go ahead.</p> <p>5 A. Specifically, no, as far as name-wise,</p> <p>6 no.</p> <p>7 Q. Do you recall that certain products were</p> <p>8 identified to you as focus products during your</p> <p>9 time at Actavis?</p> <p>10 A. I believe -- yes, yes.</p> <p>11 Q. Do you recall whether any of those</p> <p>12 products ever included any of Actavis' opioid</p> <p>13 products?</p> <p>14 A. No, I do not.</p> <p>15 MR. DIAMANTATOS: Objection; form.</p> <p>16 BY MR. MELAMED:</p> <p>17 Q. Do you -- how were the focus products</p> <p>18 communicated to you?</p> <p>19 MR. DIAMANTATOS: Objection; foundation, form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. Presented probably via -- probably an</p> <p>22 e-mail.</p> <p>23 BY MR. MELAMED:</p> <p>24 Q. You're not sure, but you believe it was</p>

1 an e-mail?  
2 A. Yes.  
3 Q. Do you recall who sent -- who would have  
4 sent those e-mails?  
5 MR. DIAMANTATOS: Objection; asked and  
6 answered.  
7 BY THE WITNESS:  
8 A. No.  
9 BY MR. MELAMED:  
10 Q. Did you have a -- did you participate --  
11 let me withdraw that and restate it.  
12 Were you eligible for a bonus program  
13 similar to the one described on pages 1177 and 78  
14 during the entirety of your time at Actavis prior  
15 to its transfer --  
16 MR. DIAMANTATOS: Objection.  
17 BY MR. MELAMED:  
18 Q. -- to Teva?  
19 MR. DIAMANTATOS: Sorry. Objection; form,  
20 vague.  
21 BY THE WITNESS:  
22 A. So, your -- just to make sure I'm  
23 understanding, what you're asking is this, this,  
24 what's in -- tagged in 177, 178, if that bonus

1 entirely from the bonus program?  
2 MR. DIAMANTATOS: Objection; form.  
3 BY MR. MELAMED:  
4 Q. Prior to when you left. Prior to when  
5 Actavis was acquired by Teva.  
6 MR. DIAMANTATOS: Objection; form.  
7 BY THE WITNESS:  
8 A. I believe they had, yes.  
9 BY MR. MELAMED:  
10 Q. There was no longer any focus on --  
11 there was no longer any bonus -- any percentage of  
12 your bonus paid out for reaching individual sales  
13 goals, is that correct?  
14 A. Best of my recollection, yes.  
15 Q. Do you recall approximately when that  
16 transition was complete that there were no longer  
17 any -- there was no longer any focus on individual  
18 sales goals as part of your bonus compensation?  
19 A. No, I do not.  
20 Q. Did you receive a document similar to  
21 1177, 1178 each year that you were at Actavis that  
22 described the bonus program?  
23 MR. DIAMANTATOS: Object to form, vague.  
24 BY THE WITNESS:

1 carried through all the way through to the Teva  
2 acquisition?  
3 BY MR. MELAMED:  
4 Q. That wasn't what I'm asking, but you can  
5 answer that question.  
6 A. I would -- I would say I highly doubt  
7 it.  
8 Q. Do you recall what changes were made to  
9 the bonus program after 2007?  
10 MR. DIAMANTATOS: Objection; form, vague.  
11 BY THE WITNESS:  
12 A. Outside of conceptually it was more --  
13 it was team, team driven.  
14 BY MR. MELAMED:  
15 Q. The -- so, am I to understand it  
16 correctly that, broadly speaking, the bonus program  
17 moved to incentivized team sales more over time?  
18 MR. DIAMANTATOS: Objection; form.  
19 BY THE WITNESS:  
20 A. Best of my recollection, yes. It moved  
21 to that.  
22 BY MR. MELAMED:  
23 Q. Did individual sales -- did your ability  
24 to meet individual sales goals ever fall away

1 A. I -- 100 percent certainty, I'm not --  
2 it's not pulling up that that -- that we did. It  
3 wouldn't surprise me, but I don't remember.  
4 BY MR. MELAMED:  
5 Q. You understand that Actavis had  
6 responsibility to participate in suspicious order  
7 monitoring pursuant to federal regulation?  
8 A. Yes.  
9 Q. Was any part of any -- do you recall  
10 whether you ever received any incentive  
11 compensation for reporting suspicious orders of  
12 opioids?  
13 MR. DIAMANTATOS: Objection; form. Go ahead.  
14 BY THE WITNESS:  
15 A. So, are you asking if -- if we received  
16 compensation for doing the right thing?  
17 BY MR. MELAMED:  
18 Q. I'm asking whether you ever -- so,  
19 the -- in 1177 and 78 --  
20 A. Yeah.  
21 Q. -- sets forth a bonus program adding up  
22 to 100 percent?  
23 A. Okay.  
24 Q. And each of the three elements are based



1 on sales. Would you agree? If you look at 1178.  
 2 MR. DIAMANTATOS: Objection; form.  
 3 BY THE WITNESS:  
 4 A. As it lays out, but I am sure there is  
 5 always some subjective components.  
 6 BY MR. MELAMED:  
 7 Q. Do you ever recall a bonus program  
 8 during your time at Actavis that incentivized, paid  
 9 out an incentive for reporting suspicious orders of  
 10 opioids?  
 11 MR. DIAMANTATOS: Objection; form, vague.  
 12 BY THE WITNESS:  
 13 A. No.  
 14 BY MR. MELAMED:  
 15 Q. Is that answer the same after the  
 16 Actavis generic entities moved to Teva?  
 17 MR. DIAMANTATOS: Objection; form.  
 18 BY THE WITNESS:  
 19 A. The answer would be the same, as far as  
 20 incentives.  
 21 BY MR. MELAMED:  
 22 Q. Do you have any understanding of what  
 23 this case is about generally?  
 24 A. Outside of what you hear in the, you

1 A. That is my understanding.  
 2 Q. Have you -- do you have any  
 3 understanding through the media that you were  
 4 describing of an opioid epidemic in the country  
 5 currently?  
 6 MR. DIAMANTATOS: Objection; form.  
 7 BY THE WITNESS:  
 8 A. That word has been used a lot, yes.  
 9 BY MR. MELAMED:  
 10 Q. Have you seen any effect in your  
 11 community of the opioid epidemic?  
 12 MR. DIAMANTATOS: Objection; form.  
 13 BY THE WITNESS:  
 14 A. Personally, no.  
 15 BY MR. MELAMED:  
 16 Q. Has it -- have any of your friends or  
 17 family been affected by opioid addiction?  
 18 MR. DIAMANTATOS: Objection; form, vague.  
 19 BY THE WITNESS:  
 20 A. Not to my knowledge, no.  
 21 BY MR. MELAMED:  
 22 Q. Do you know anyone who has ever taken  
 23 prescription opioids?  
 24 A. My -- probably my father-in-law who

1 know, the general press, the general public, that's  
 2 my knowledge.  
 3 Q. What is your understanding based on what  
 4 you've heard?  
 5 A. That --  
 6 MR. DIAMANTATOS: Objection; form, foundation.  
 7 BY THE WITNESS:  
 8 A. That there is -- I really -- I haven't  
 9 read much about it. I mean, I've read it and you  
 10 hear about it on the news, but I guess I haven't,  
 11 you know -- just trying to culminate an answer.  
 12 That there's a -- that there is a  
 13 problem with -- with, you know -- there has been  
 14 for years, whether illicit or not, problems with  
 15 drugs in the United States as well as the world.  
 16 That's I guess kind of a top line, I  
 17 guess, understanding.  
 18 BY MR. MELAMED:  
 19 Q. Is your understanding that that problem  
 20 relates specifically to opioids?  
 21 A. I think it's a combination of a lot of  
 22 things.  
 23 Q. Is it your understanding that this case  
 24 relates specifically to opioids?

1 passed away from cancer.  
 2 Q. Do you know anyone who's taken  
 3 prescription opioids for purposes other than those  
 4 for which the opioids were prescribed?  
 5 A. No.  
 6 Q. Do you know anyone who's ever taken  
 7 prescription opioids that weren't prescribed by  
 8 that person's doctor?  
 9 A. No.  
 10 Q. Do you know anyone you've worked with  
 11 who has been addicted to opioids?  
 12 MR. DIAMANTATOS: Objection; form, asked and  
 13 answered.  
 14 BY THE WITNESS:  
 15 A. To my knowledge, no.  
 16 BY MR. MELAMED:  
 17 Q. So, I want to talk about your job as  
 18 national sales director.  
 19 A. Okay.  
 20 Q. And I understand there are periods of  
 21 time of which the entity that -- there were changes  
 22 in the entity you were working for. I will try to  
 23 be as clear as possible.  
 24 A. Okay.

1 Q. If there is confusion, please let me  
2 know and please feel free to explain as we go  
3 through how things changed over time.

4 A. Okay.

5 Q. As a general matter, part of your job  
6 was to increase the sales of the generic products  
7 you were selling, correct?

8 MR. DIAMANTATOS: Objection; form.  
9 BY THE WITNESS:

10 A. I really see my role as matching up our  
11 customers' need for their prescriptions that the  
12 physicians are writing the approved product for for  
13 the patients and matching up my supply chain to  
14 what the account's needs are.

15 BY MR. MELAMED:

16 Q. And you were incentivized for meeting  
17 certain sales goals, correct?

18 MR. DIAMANTATOS: Objection; form.  
19 BY THE WITNESS:

20 A. As a group, it's really a team effort,  
21 so it's nothing individual.

22 BY MR. MELAMED:

23 Q. We just went through at least in 2007  
24 there was an individual component, right?

1 A. In 2007, yes.

2 Q. Okay. And, so, at least for part of the  
3 time you were a national sales director, there  
4 was -- you were incentivized individually for  
5 meeting certain sales goals?

6 MR. DIAMANTATOS: Objection; form.  
7 BY THE WITNESS:

8 A. As of that document, that look for 2007,  
9 yes, there appears to be one year that there was --  
10 there was that individual piece.

11 BY MR. MELAMED:

12 Q. And do you recall that that was the only  
13 year you were incentivized --

14 MR. DIAMANTATOS: Objection.

15 BY MR. MELAMED:

16 Q. -- for individual sales goals?

17 MR. DIAMANTATOS: Sorry. Objection; form,  
18 asked and answered.

19 BY THE WITNESS:

20 A. I guess I was -- let's put it this way.  
21 I was surprised that there was an individual piece.  
22 I -- yeah.

23 BY MR. MELAMED:

24 Q. And starting in 2007 and continuing

1 through today you've been incentivized for reaching  
2 team sales goals, correct?

3 MR. DIAMANTATOS: Objection; form.  
4 BY THE WITNESS:

5 A. There's a whole -- there's subjective  
6 components. So, there is a sales component, but  
7 there is subjective components and there is  
8 managing the accounts. So, it's a -- pretty well  
9 encompassing piece.

10 BY MR. MELAMED:

11 Q. So, part of that, part of that whole  
12 incentive structure has been for reaching team  
13 sales goals, right?

14 A. There is a portion of it, yes.

15 Q. And that's from 2007 when you were hired  
16 through today, is that correct?

17 A. There is -- I would say without --  
18 nothing striking me that would not make that  
19 statement correct.

20 Q. And your -- in your role as national  
21 sales director, all of the drugs within your  
22 portfolio of drugs you were selling were generic,  
23 is that correct?

24 MR. DIAMANTATOS: Objection; form, time frame.

1 BY THE WITNESS:

2 A. That's -- majority would be, yeah.

3 BY MR. MELAMED:

4 Q. Were there particular times at which you  
5 sold brand name drugs?

6 MR. DIAMANTATOS: Objection; form.  
7 BY THE WITNESS:

8 A. There may have been some brands and  
9 over-the-counter.

10 BY MR. MELAMED:

11 Q. I'm sorry. Was that brands and  
12 over-the-counter?

13 A. Yes.

14 Q. Or brands in over-the-counter?

15 A. Oh, sorry. Brands and.

16 Q. Do you recall which brand drugs you  
17 sold?

18 A. No. I mean, it's -- again, just as far  
19 as point of clarification, when it comes to any  
20 interaction with brand, when you're on the trade,  
21 the trade side, it's really, it's supporting the  
22 prescriptions that a physician is writing for an  
23 FDA-approved product for a patient that they deem  
24 fit.

1 So, it's just making -- it's matching up  
2 that the patient is getting what the physician  
3 thinks is best for them. So, it's not really  
4 selling. It's just making sure that the store has  
5 that product that the physician deems is best for  
6 the patient.  
7 Q. And is that the same -- do you see your  
8 role in the same way vis-à-vis generics?  
9 A. Generics are -- are different than --  
10 their mechanisms are different than brands.  
11 Q. How so?  
12 A. As you've kind of touched upon, brand is  
13 a prescription, it's all driven by what the  
14 physician is writing and then they feel that there  
15 is an FDA-approved product that's appropriate for  
16 their patient's needs and the patient goes to the  
17 pharmacy to get it filled. And there could be  
18 multiple products for hypertension, but they think  
19 this product is, you know, is best. So, the store  
20 maybe has to carry five different hypertension  
21 products.  
22 When it comes to generics, for the most  
23 part, they only carry one -- one manufacturer. So,  
24 if there is one manufacturer or 12 manufacturers

1 equivalents for certain brand name drugs,  
2 correctly? Correct?  
3 MR. DIAMANTATOS: Objection; form, time frame.  
4 BY THE WITNESS:  
5 A. They did do manufacture, yes.  
6 BY MR. MELAMED:  
7 Q. And so did some of Actavis' competitors,  
8 correct?  
9 MR. DIAMANTATOS: Objection; form, time frame.  
10 BY THE WITNESS:  
11 A. Yes.  
12 BY MR. MELAMED:  
13 Q. So, if there are two AB-related opioids,  
14 how would Actavis compete to get -- to have -- to  
15 increase its sales of its opioid?  
16 MR. DIAMANTATOS: Objection; form, foundation.  
17 BY THE WITNESS:  
18 A. It would really follow suit for the  
19 whole portfolio. So, it comes down to a lot of the  
20 things. I guess you would have to ask, you know,  
21 some of the customers what's most important to them  
22 so that they are able to fill these legally written  
23 FDA-approved drugs at their stores. They can't  
24 fill their customers unless they have supply.

1 and there's an AB-rated product for an item,  
2 they'll negotiate the best price and then that's  
3 the only one that they will -- for the most part,  
4 will stock at their -- at the store.  
5 Q. So, the -- when you are saying "they"  
6 would negotiate the best price, you are talking  
7 about the pharmacies?  
8 A. Our customers. So, pharmacy,  
9 wholesalers.  
10 Q. So, is -- is it fair to say, then, that  
11 Actavis for its generic drugs competed primarily  
12 based on price?  
13 MR. DIAMANTATOS: Objection; form.  
14 BY THE WITNESS:  
15 A. I wouldn't think that's fair.  
16 BY MR. MELAMED:  
17 Q. How did Actavis -- as a -- pertaining to  
18 its generic drugs.  
19 A. Okay.  
20 Q. How did Actavis compete against other  
21 offerors of AB-rated -- let me withdraw that.  
22 That's a very messily stated question.  
23 A. Okay.  
24 Q. So, Actavis manufactured AB-rated

1 So, supply would be an item that is key,  
2 and I guess at least the customers have told us  
3 that's key for them is they have an ample supply.  
4 So, price is -- price is nice but without any  
5 product, they are not able to fulfill those  
6 prescriptions.  
7 BY MR. MELAMED:  
8 Q. Okay. So, there are at least two --  
9 you've mentioned at least two elements, to be  
10 clear?  
11 A. Yeah.  
12 Q. You would compete on price and  
13 availability, supply of the drug, is that correct?  
14 A. Yeah.  
15 Q. Is there anything else?  
16 A. It's really -- well, supply is really  
17 the key thing. I mean, and sometimes it comes down  
18 to how -- how -- how the companies are working  
19 together.  
20 Q. Kind of the interpersonal relationship?  
21 A. There is that.  
22 Q. You mentioned for brands, it was -- your  
23 role was supporting prescriptions that a physician  
24 is writing for an FDA-approved product for a

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1 patient that they, the physician, sees fit?

2 A. Yes.

3 Q. What did you do to determine that the  
4 prescriptions the physician is writing were for  
5 legitimate reasons?

6 MR. DIAMANTATOS: Objection; form,  
7 mischaracterizes the witness' testimony.

8 BY THE WITNESS:

9 A. You -- you can't govern. It's not how  
10 it works. It's the physician. It's not every --  
11 that you see every prescription and then there is a  
12 government agency.

13 So, I think as a consumer and as a  
14 whole, you look at the physician is doing the right  
15 thing and they are diagnosing the patient for what  
16 they have. They are seeking a medication or  
17 therapy. Sometimes it's food and diet that  
18 patients can cure their ailments. And if that's --  
19 they're not willing and able to do that, then there  
20 is other -- there is other options for them.

21 So, it's -- it's something that you get  
22 calls from either the field or there is a request  
23 from corporate saying, "Hey, we're not -- what's,  
24 you know -- we don't have this product. Can you

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1 give me some information on it?" And so you share  
2 that information and then it works through the  
3 system.

4 BY MR. MELAMED:

5 Q. Did you ever individually follow up with  
6 any physician concerning any prescription?

7 A. No.

8 Q. Do you know -- you had peers as  
9 directors of national accounts, is that correct?

10 A. Yes.

11 Q. And they had just a different customer  
12 base, correct?

13 A. Correct.

14 Q. Do you know if any of them ever reached  
15 out to a physician to do anything to confirm -- let  
16 me withdraw that.

17 Do you know if any of them ever talked  
18 to a physician at all concerning any of the drugs  
19 that Actavis was selling?

20 MR. DIAMANTATOS: Objection; form, vague,  
21 foundation.

22 BY THE WITNESS:

23 A. No, I do not.

24 BY MR. MELAMED:

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1 Q. You don't recall any of them mentioning  
2 to you --

3 A. Correct.

4 Q. -- any such conversations, correct?

5 THE WITNESS: Sorry.

6 MR. DIAMANTATOS: Same objections. Go ahead.

7 BY THE WITNESS:

8 A. Correct.

9 BY MR. MELAMED:

10 Q. I'm handing you what's been marked  
11 Exhibit 3.

12 (WHEREUPON, a certain document was  
13 marked as Allergan-Dorsey Exhibit  
14 No. 3: 2/12/12 e-mail with  
15 attachment; ACTAVIS0323261 -  
16 0323277.)

17 BY MR. MELAMED:

18 Q. Exhibit 3 is an e-mail and attachment.  
19 It starts at ACTAVIS0323261 and continues through  
20 3277.

21 MR. ROTH: Matt, just for the record, we had  
22 this issue at other depositions. We re-produced  
23 these with confidentiality designations so we need  
24 to square that up.

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1 MR. MELAMED: Okay. So, Exhibit 3 has been  
2 designated confidential by Allergan.

3 MR. ROTH: And produced with a different Bates  
4 stamp, but we can reconcile that later.

5 MR. MELAMED: Sorry. I didn't mean to pull  
6 something that wasn't marked.

7 BY MR. MELAMED:

8 Q. The e-mail is from Michael Perfetto to  
9 Jinping McCormick, Rose-Marie Casilli and  
10 Karen Steodter, dated February 12, 2012. Subject  
11 is "My presentation," and then the attachment  
12 thereto is a presentation with the title slide, it  
13 says, "Michael Perfetto, Actavis Sales Meeting,  
14 January 11, 2011, Move the Needle."

15 Do you recall this PowerPoint  
16 presentation?

17 A. In its entirety, no. It was a while  
18 back.

19 Q. Do you recall whether you -- whether you  
20 ever saw this presentation?

21 A. If it was shown to us, then, yes. I  
22 mean, it's not triggering anything from eight years  
23 ago but...

24 Q. Did you have periodic sales meetings

1 with Mr. Perfetto?

2 A. Yes.

3 Q. And at those meetings did he ever use

4 PowerPoint presentations?

5 A. I would think he would, yes.

6 Q. Do you recall that he did?

7 A. Yeah, I guess. Yes.

8 Q. So, if you look at -- I'm going to use

9 the Bates numbers at the bottom of the page.

10 A. Okay.

11 Q. If you look at the one ending 3265.

12 A. Okay.

13 Q. The title bar says, "2010 - Another

14 Great Success Story, Two Years in a Row."

15 Do you see that?

16 A. Yes.

17 Q. So, this appears to be -- or let me

18 withdraw that.

19 Is it accurate to say that this

20 PowerPoint deck summarizes, at least in part,

21 sales, Actavis sales in 2010?

22 MR. DIAMANTATOS: Objection; form, foundation.

23 We haven't established the witness recalls this

24 document, was on the e-mail that received it.

1 are oxycodone tabs and fentanyl patches, correct?

2 MR. DIAMANTATOS: Objection; form, foundation.

3 BY THE WITNESS:

4 A. Yes, I see that written.

5 BY MR. MELAMED:

6 Q. Do you recall that oxycodone tabs and

7 fentanyl patches were key products in 2010?

8 A. No.

9 MR. ROTH: Object to form.

10 BY MR. MELAMED:

11 Q. Do you have any reason to doubt that

12 oxycodone tabs were a key product in 2010?

13 MR. DIAMANTATOS: Objection; form, foundation.

14 BY THE WITNESS:

15 A. It was a -- what it looks like here, it

16 was a -- looking at the top -- top items and so

17 there was Diltiazem, Gaba caps, Gabapentin tabs,

18 oxy and fentanyl. So, in essence, they're saying

19 those -- of those five products, those are -- of

20 the portfolio, that's how they're identified, those

21 five products.

22 BY MR. MELAMED:

23 Q. Meaning that they were -- they were

24 identified as the key products?

1 MR. MELAMED: You can object but you can't

2 instruct.

3 MR. DIAMANTATOS: I'm not instructing. I am

4 laying a foundation.

5 MR. MELAMED: You just instructed for a full

6 sentence.

7 MR. DIAMANTATOS: Okay. Sure.

8 BY THE WITNESS:

9 A. Can you repeat.

10 BY MR. MELAMED:

11 Q. Sure. Does this appear, this slide

12 appear to be a summary of the 2010 Actavis product

13 sales?

14 MR. DIAMANTATOS: Objection; form, foundation.

15 BY THE WITNESS:

16 A. As it's -- as it's written and laid in

17 front of us with the 2009 numbers and 2010 numbers,

18 then yes, it appears that way.

19 BY MR. MELAMED:

20 Q. Okay. If you turn to the next page,

21 3266, you see the first bullet point identifies key

22 products?

23 A. Okay.

24 Q. You see that amongst the key products

1 MR. DIAMANTATOS: Objection; form, foundation.

2 BY THE WITNESS:

3 A. Based upon how I guess he's written it

4 up, yeah, there's five products there that he's

5 identified.

6 BY MR. MELAMED:

7 Q. Okay.

8 A. Whosever wrote it.

9 Q. If you turn to the next page, do you see

10 the header says "Actavis Salesperson for CY 10"?

11 A. Yep.

12 Q. And it identifies you, correct?

13 A. Yeah.

14 Q. Do you recall being the salesperson for

15 CY 2010 at Actavis?

16 A. No, I don't, but...

17 Q. Do you recall seeing this slide before?

18 A. No. Still trying to figure out Mr. Torn

19 Blue Jeans.

20 Q. Do you have any idea what Mr. Torn Blue

21 Jeans means?

22 A. No, I don't.

23 Q. If you turn to the next page, 3268, and

24 the header says "2010 Sales Performance (Direct and

1 Indirect)."

2 Do you -- do you understand the  
3 information presented on the page, the chart  
4 presented on the page?

5 MR. DIAMANTATOS: Objection; form.

6 BY THE WITNESS:

7 A. Best that I can at reading it within the  
8 last 30 seconds, yes.

9 BY MR. MELAMED:

10 Q. So, if I just walk through your line, I  
11 just want to make sure my understanding squares  
12 with yours.

13 A. Okay.

14 Q. If it doesn't, I want you to tell me how  
15 I'm wrong.

16 So, your line identified by "Dorsey,"  
17 the first three columns after that are "Full Year  
18 2010 Adjusted Target." Correct?

19 MR. DIAMANTATOS: Objection; form, foundation.

20 BY THE WITNESS:

21 A. The first column, yes, it says, "Full  
22 Year 2010 Adjusted Target."

23 BY MR. MELAMED:

24 Q. Okay. And so your target for full year

1 2010 for direct sales was -- is noted here as  
2 64,809. Do you see that?

3 MR. DIAMANTATOS: Objection; form, foundation.

4 BY THE WITNESS:

5 A. I see that number, yes.

6 BY MR. MELAMED:

7 Q. And is that in millions?

8 MR. DIAMANTATOS: Objection; form, foundation.

9 BY THE WITNESS:

10 A. I would think so. Yes.

11 BY MR. MELAMED:

12 Q. You were expected to sell more than  
13 \$64,809 worth of Actavis pharmaceutical products to  
14 direct recipients in 2010, correct?

15 A. I think the goal --

16 MR. DIAMANTATOS: Hold on. Objection; form,  
17 foundation. Go ahead.

18 BY THE WITNESS:

19 A. I don't know if I'd use the word  
20 "expectation." It was a goal that was...

21 BY MR. MELAMED:

22 Q. So, is it -- do you believe it correct  
23 to say that your goal for direct sales in 2010 was  
24 64,809,000 worth of sales?

1 MR. DIAMANTATOS: Objection; form.

2 BY THE WITNESS:

3 A. I would have to look at the macro  
4 number, but if -- to make sure that matches up, but  
5 it would perceive to make sense that it was, yes,  
6 64 million and change.

7 BY MR. MELAMED:

8 Q. And then you had a 73,282,000 target for  
9 indirect sales in 2010, correct?

10 MR. DIAMANTATOS: Objection; form, foundation.

11 BY THE WITNESS:

12 A. That's how it states, yes.

13 BY MR. MELAMED:

14 Q. And can you describe again what are  
15 indirect sales?

16 A. Indirect sales would be -- could be an  
17 account that doesn't buy direct. It buys through a  
18 wholesaler or it can be a wholesaler who buys  
19 direct. However, they sell on their source program  
20 and it comes through as an indirect sale.

21 Q. And Actavis had information sufficient  
22 to identify all the indirect sales?

23 MR. ROTH: Object to form, foundation, calls  
24 for speculation.

1 BY THE WITNESS:

2 A. They have a mechanism of chargebacks  
3 which allows you to see the customer's customer,  
4 who they're selling to.

5 BY MR. MELAMED:

6 Q. Can you explain what chargebacks are?

7 A. Chargeback is a process in which, for  
8 instance, as an example, a wholesaler will buy it  
9 at a \$10 price. They will sell it to their  
10 customer and then submit a chargeback for the  
11 difference between what they sold it and that \$10  
12 mark.

13 Q. And did all of your customers have --  
14 submit chargebacks?

15 MR. DIAMANTATOS: Objection; form.

16 BY THE WITNESS:

17 A. At what juncture, what time frame?

18 BY MR. MELAMED:

19 Q. Okay. Did that change over time?

20 MR. DIAMANTATOS: Objection; form.

21 BY THE WITNESS:

22 A. I would say yes.

23 BY MR. MELAMED:

24 Q. Okay. So, how was it determined which



1 customers were able to submit chargebacks?  
 2 MR. DIAMANTATOS: Objection; form, foundation.  
 3 BY THE WITNESS:  
 4 A. That's not -- wasn't my expertise as far  
 5 as how that determination was, and I'm not even  
 6 sure who came up with it.  
 7 BY MR. MELAMED:  
 8 Q. You were aware of which of your  
 9 customers could submit chargebacks, correct?  
 10 MR. DIAMANTATOS: Objection; form.  
 11 BY THE WITNESS:  
 12 A. For the most -- yeah, for the most part,  
 13 yes.  
 14 BY MR. MELAMED:  
 15 Q. Okay. Was there -- how can you explain  
 16 to me how that process, your understanding of how  
 17 that process was established? Was it a contractual  
 18 relationship?  
 19 MR. DIAMANTATOS: Objection; form, foundation.  
 20 BY THE WITNESS:  
 21 A. So I just want to be sure I'm not  
 22 wasting your time. When you say do I understand  
 23 the process of, I'm sorry, what happening?  
 24 BY MR. MELAMED:

1 Q. I will probably also refer to them as  
 2 ABC. I just want to make sure --  
 3 A. Yeah.  
 4 Q. -- that the record is clear.  
 5 Do you recall any other customers that  
 6 had chargeback accounts with Actavis?  
 7 MR. DIAMANTATOS: Objection; form, time frame.  
 8 BY THE WITNESS:  
 9 A. A -- split time, I mean Walgreens used  
 10 to be direct and then they went indirect.  
 11 BY MR. MELAMED:  
 12 Q. Do you recall when Walgreens went  
 13 indirect?  
 14 A. Somewhere between five and seven years  
 15 ago maybe. I'm not -- not quite.  
 16 Q. Do you recall any other customers that  
 17 had chargeback relationships with Actavis between  
 18 2007 and present?  
 19 A. It's not coming to memory, but probably  
 20 our smaller wholesalers. So, it's -- wholesalers  
 21 as a group is -- are ones that have, I think were  
 22 kind of the pioneers, if you're going to say that,  
 23 are ones that established there was chargeback  
 24 relationship between ourselves and them. Again,

1 Q. Fair enough. How chargeback, how this  
 2 chargeback system was set up. You said some of  
 3 your customers had -- could seek chargebacks.  
 4 Other customers couldn't. Is that correct? Am I  
 5 understanding your testimony correct?  
 6 A. So, there is -- for the -- for the most  
 7 part, you can say all -- the major wholesalers have  
 8 a chargeback system in place.  
 9 Q. And when you say "a chargeback system in  
 10 place," you mean a chargeback system in place with  
 11 Actavis?  
 12 A. With manufacturers. I'm sorry.  
 13 Let's -- specific to us. So, yes, with Actavis.  
 14 Q. And is that answer consistent from 2007  
 15 to present, that the major wholesalers have a  
 16 chargeback system in place with Actavis?  
 17 A. Best of my knowledge, yes.  
 18 Q. Who are you defining as the major  
 19 wholesalers?  
 20 A. You have three.  
 21 Q. And who are they?  
 22 A. Cardinal, McKesson and ABC.  
 23 Q. ABC is AmerisourceBergen, correct?  
 24 A. Sorry. Yes.

1 from what I -- my limited knowledge.  
 2 Q. And so, can you explain the purpose -- I  
 3 think you started to go into this.  
 4 A. Okay.  
 5 Q. The purpose of the chargeback system.  
 6 You said, I think if I recall correctly, you said  
 7 something like the wholesaler, for instance, buys a  
 8 product at \$10 and then sells it at something and  
 9 then files a chargeback.  
 10 Can you walk through that transaction,  
 11 making that more concrete?  
 12 A. Like, for instance, just example like  
 13 with a number?  
 14 Q. Sure.  
 15 A. I mean, just, again, illustrative  
 16 purposes only is that we'll just stick with the \$10  
 17 number. They buy it at WAC, so wholesale  
 18 acquisition cost. They buy it from us. They hold  
 19 the inventory and then when one of their customers  
 20 purchases it, it's more than likely it's  
 21 on their -- could be on their source program, which  
 22 is a wholesaler preferred program that they have  
 23 for their customers, or it could be a third-party  
 24 contract. They sell it to one of those two

<p style="text-align: right;">Page 85</p> <p>1 individuals, let's say, at \$9. Then they'll submit</p> <p>2 a chargeback for \$1 back to Actavis.</p> <p>3 Q. And in order to submit that chargeback</p> <p>4 to Actavis, what information does the wholesaler</p> <p>5 need to provide?</p> <p>6 MR. DIAMANTATOS: Objection; foundation.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Not my area of expertise. From my</p> <p>9 understanding it's either a HIN number or a DEA</p> <p>10 number.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. Do they need to identify the -- does the</p> <p>13 wholesaler need to identify the customer, its</p> <p>14 customer that made the purchase --</p> <p>15 MR. DIAMANTATOS: Objection.</p> <p>16 BY MR. MELAMED:</p> <p>17 Q. -- at \$9, using your explanation?</p> <p>18 MR. DIAMANTATOS: Objection; foundation. Go</p> <p>19 ahead.</p> <p>20 BY THE WITNESS:</p> <p>21 A. That will come through the DEA number or</p> <p>22 the HIN number.</p> <p>23 BY MR. MELAMED:</p> <p>24 Q. For any chargeback, Actavis had</p>	<p style="text-align: right;">Page 86</p> <p>1 information about the entity that made the purchase</p> <p>2 from the wholesaler that bought the Actavis</p> <p>3 product?</p> <p>4 MR. ROTH: Objection; form, lacks foundation,</p> <p>5 calls for speculation.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I have not seen those -- those formats.</p> <p>8 It's not my area of expertise as far as what is</p> <p>9 driven, but that's my understanding that's the way</p> <p>10 that we know where the product is going, through</p> <p>11 those numbers.</p> <p>12 BY MR. MELAMED:</p> <p>13 Q. Okay. Do you know whose area of</p> <p>14 expertise that was at Actavis and from 2007 to --</p> <p>15 well, let's -- let me withdraw that.</p> <p>16 A. Okay.</p> <p>17 Q. Do you know whose area or, if multiple</p> <p>18 people, whose areas of expertise that was between</p> <p>19 2007 and 2018?</p> <p>20 MR. DIAMANTATOS: Objection; form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Not with a certainty.</p> <p>23 BY MR. MELAMED:</p> <p>24 Q. Who -- if you wanted to understand the</p>
<p style="text-align: right;">Page 87</p> <p>1 chargeback more completely than you've been able to</p> <p>2 describe, as chargebacks were used by Actavis and</p> <p>3 its certain customers in 2007, who would you ask?</p> <p>4 MR. DIAMANTATOS: Objection; form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. So, when you say "understand," to see if</p> <p>7 I have -- like look at what the sales were or like</p> <p>8 how many bottles that we -- that were sold during a</p> <p>9 particular month?</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. Sure. Start there. Who would you ask</p> <p>12 for that information?</p> <p>13 MR. DIAMANTATOS: Objection; form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I think there was reports that were --</p> <p>16 that they generated for us. I don't know if it --</p> <p>17 if it was from a function of a sales, from a sales</p> <p>18 column or if it came from like the marketing,</p> <p>19 marketing folks.</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. Were those reports regularly generated?</p> <p>22 MR. DIAMANTATOS: Objection; form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. I'm -- by "regular"?</p>	<p style="text-align: right;">Page 88</p> <p>1 BY MR. MELAMED:</p> <p>2 Q. Let me define that for you to be clear.</p> <p>3 Regularly generated as opposed to</p> <p>4 something that would be a one-off request for such</p> <p>5 a report. Was it something that you received on a</p> <p>6 periodic basis?</p> <p>7 MR. DIAMANTATOS: Objection; form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. We received them. I just don't know if</p> <p>10 it was -- if it was a set period or not.</p> <p>11 BY MR. MELAMED:</p> <p>12 Q. Did you make requests for that</p> <p>13 information?</p> <p>14 A. Coming off the top of my head, I'm not</p> <p>15 aware. But I may have just to see if a new award,</p> <p>16 if an account was -- was I guess doing what they --</p> <p>17 their demand was actual to what they thought it</p> <p>18 might be.</p> <p>19 Q. And did -- I had asked that question</p> <p>20 initially regarding Actavis in 2007.</p> <p>21 A. Okay.</p> <p>22 Q. Does that answer change about who you</p> <p>23 would ask about the information as we go forward in</p> <p>24 time to 2018?</p>

1 MR. DIAMANTATOS: Objection; form, vague.  
2 BY THE WITNESS:

3 A. It may have. As far as what department,  
4 you know, what department, who -- the who and what  
5 is, who or what department may have changed over  
6 the course of time as the structures have changed  
7 through the acquisitions, yes.

8 BY MR. MELAMED:

9 Q. And you can't think of any of the  
10 individuals -- or let me withdraw that and state it  
11 more clearly.

12 Can you think of any individuals you  
13 would ask for -- let me withdraw that.

14 You mentioned that you saw chargeback  
15 reports at least some of the time, correct?

16 A. A chargeback report, I think there is  
17 probably two different levels. There is a macro  
18 high level, which is, more than likely, what I  
19 would -- sorry, what I would -- I would see as far  
20 as sales, for instance, okay, your indirects are  
21 looking at this and drilled down by account.

22 Anything that starts getting into  
23 microfibers, that would be not something of -- that  
24 I would interact with.

1 Q. Do you know who would interact with that  
2 micro level information at any time during your  
3 employment from 2007 to today?

4 A. Well, chargebacks, and, again, this is  
5 estimate, at best, it would be departments from  
6 probably our customer service, would be a --  
7 anything related to controls, it would be our SOMS,  
8 SOMS team would be actively involved.

9 Q. What is SOMS team?

10 A. Suspicious order monitoring.

11 MR. DIAMANTATOS: Counsel, I don't want to  
12 interrupt your line. But at some point if we could  
13 take a break whenever it works with your line of  
14 questioning, please.

15 MR. MELAMED: Sure. Let me finish this  
16 document and we will go.

17 MR. DIAMANTATOS: Sure. Thank you.

18 BY MR. MELAMED:

19 Q. Do you know if Actavis ever made use of  
20 chargeback information for marketing purposes?

21 MR. ROTH: Object to form, lacks foundation,  
22 calls for speculation.

23 BY THE WITNESS:

24 A. For marketing, can you --

1 BY MR. MELAMED:

2 Q. To identify customers to whom they  
3 want -- you wanted to sell more product or  
4 customers whose accounts you wanted to push harder  
5 at?

6 MR. ROTH: Same objections.

7 MR. DIAMANTATOS: Same objections.

8 BY THE WITNESS:

9 A. Doesn't really work that way.

10 BY MR. MELAMED:

11 Q. Did you ever use any of the information  
12 provided in chargeback reports to -- for any  
13 purposes with your customers?

14 A. There would be more than likely from our  
15 marketing team, they would want us to look at  
16 the -- if the customers were being compliant,  
17 meaning if they said there was permethrin cream,  
18 they needed 10,000 tubes a year and they are only  
19 buying 5,000, what's going on. So, in that -- that  
20 would be a good example.

21 Q. And you mentioned that the SOMS team  
22 used the chargeback reports?

23 A. I'm not -- I presume -- they oversee --  
24 they oversee as far as the sales data. So, I'm

1 only presuming that's one of the tools that they  
2 use to -- to see -- garner that information.

3 Q. But you're not sure either way, that's  
4 your assumption. Is that accurate?

5 A. I'm not sure where they get their data  
6 from.

7 Q. Okay. Returning to the chart on 3268,  
8 so, the full year 2010 adjusted target for you was  
9 \$138,091,000 in net sales, is that correct?

10 MR. DIAMANTATOS: Objection; form, foundation.

11 BY THE WITNESS:

12 A. Per this spreadsheet, yes.

13 BY MR. MELAMED:

14 Q. According to this spreadsheet.

15 And then skipping over a couple columns,  
16 your full year 2010 actual net sales, though the  
17 chart notes it's not final if you look at the  
18 bottom, but as of the date of the chart were  
19 \$180,278,000, correct?

20 MR. DIAMANTATOS: Objection; form, foundation.

21 BY THE WITNESS:

22 A. Based upon that cell, yes.

23 BY MR. MELAMED:

24 Q. If you turn to the next page, which is

1 3269, it lists a series of customer families.  
 2 Do you see that?  
 3 A. Yes.  
 4 Q. Would -- is it your understanding that  
 5 each of these customers would have chargeback  
 6 relationships with Actavis at this point in time?  
 7 MR. DIAMANTATOS: Objection; form, foundation.  
 8 BY THE WITNESS:  
 9 A. At this particular time I don't know for  
 10 100 percent certainty which did and which did not.  
 11 BY MR. MELAMED:  
 12 Q. And if you turn to the next page, 2 --  
 13 I'm sorry. 3270. This shows Actavis' top ten  
 14 products ranked by absolute net sales in dollar  
 15 amount for 2010. Is that correct?  
 16 MR. DIAMANTATOS: Objection; form, foundation.  
 17 BY THE WITNESS:  
 18 A. On this, yeah, I guess on the -- on the  
 19 document it does say the top ten products for 2010.  
 20 BY MR. MELAMED:  
 21 Q. And, again, is it your understanding  
 22 that these numbers, if you look at the actual  
 23 number, for instance, for the first ranked product  
 24 group, which is oxycodone CR, that the 59,397

1 number reflects net sales of \$59,397,000?  
 2 MR. DIAMANTATOS: Objection; foundation.  
 3 BY THE WITNESS:  
 4 A. It would be -- I guess my assumption  
 5 would be the same format as the previous, on the  
 6 268.  
 7 BY MR. MELAMED:  
 8 Q. Do you know what CR stands for in  
 9 oxycodone CR?  
 10 A. Everything is a little different, but I  
 11 would -- I would go with controlled release.  
 12 Q. And then No. 4 says "Oxycodone tabs."  
 13 Were those not controlled release?  
 14 MR. DIAMANTATOS: Objection; form, foundation.  
 15 BY THE WITNESS:  
 16 A. I would have to see the NDC to be  
 17 specific. However, 2010, Actavis, so probably  
 18 would be the IR, the immediate, immediate release.  
 19 BY MR. MELAMED:  
 20 Q. Is controlled release sometimes referred  
 21 to as extended release?  
 22 A. Yeah, I guess it could be, yeah.  
 23 Q. If you turn to 3274. I'm sorry. Before  
 24 you get there. If you just turn to 3271.

1 A. Okay.  
 2 Q. There is a title slide that says,  
 3 "CY 2011 Generic Rx Revenue Target 535 million."  
 4 Do you see that?  
 5 A. Yes.  
 6 Q. And then if you turn to 3274, which is  
 7 titled "Path for Sales Success," first bullet point  
 8 is "Focus on Needle Movers."  
 9 Do you see that?  
 10 A. Yeah.  
 11 Q. What do you understand -- do you have  
 12 any understanding of what Mr. Perfetto meant by  
 13 "needle movers"?  
 14 MR. DIAMANTATOS: Objection; form, foundation,  
 15 calls for speculation.  
 16 BY THE WITNESS:  
 17 A. No, I -- I can't -- Mike had some unique  
 18 tag lines. So, I don't know specifically how he  
 19 came up with it or what his intention was with, you  
 20 know. I can speculate but that's --  
 21 BY MR. MELAMED:  
 22 Q. What is your -- what's your speculation?  
 23 MR. DIAMANTATOS: Objection; form.  
 24 BY THE WITNESS:

1 A. Well, again, I don't know what --  
 2 what -- what weight you put on a speculation. It's  
 3 a guess to me in my mind.  
 4 So, products that you're -- well,  
 5 moves -- so, it would just -- it would be focus on  
 6 the products that I guess the customers need the  
 7 most I guess. It's the key items I guess. Key  
 8 products.  
 9 Q. Key products for sales success?  
 10 MR. DIAMANTATOS: Objection; form,  
 11 mischaracterizes the witness' testimony.  
 12 BY THE WITNESS:  
 13 A. No. I'm just saying what it appears  
 14 here is that what he is saying is, again, it's --  
 15 I'm guessing at this point. So, I guess I have a  
 16 hard time guessing the intent of an author of what  
 17 they're writing and what they're -- what their full  
 18 meaning is behind it.  
 19 BY MR. MELAMED:  
 20 Q. How long did you report to Mr. Perfetto?  
 21 A. When did I say I started, in 2007?  
 22 Q. Um-hmm.  
 23 A. I would look -- I don't have the exact  
 24 date. Whatever Watson bought Actavis. That's kind

<p style="text-align: right;">Page 97</p> <p>1 of when our -- we -- I stopped -- my reporting 2 structure into Mike ended. 3 Q. So, it was a series of years that you 4 reported directly to Mr. Perfetto, correct? 5 A. Yeah. 6 Q. I'll represent to you that the Watson, 7 the acquisition closed in 2013. 8 A. Okay. 9 Q. Does that sound more or less accurate to 10 you? I'm not asking you. But do you have an 11 understanding that you reported to Mr. Perfetto for 12 approximately six years? 13 A. Seem reasonable. 14 Q. If you turn to the next page, 3275, it 15 identifies "Needle Movers," and do you see the 16 fentanyl patch is listed as a needle mover? 17 MR. DIAMANTATOS: Objection; form, foundation. 18 BY THE WITNESS: 19 A. I see it in that cell. 20 BY MR. MELAMED: 21 Q. Do you understand what the "Current 22 Share" and "Target Share" columns mean? 23 A. If memory -- well, "Current Share" is 24 pretty self-explanatory.</p>	<p style="text-align: right;">Page 98</p> <p>1 I think the -- again, I am thinking here 2 that the "Target Share" means as far as growth. 3 You want to grow at another 5%. 4 Q. Okay. So, just to -- so I'm clear on 5 it, current share of 13% for fentanyl patch meant 6 that Actavis had 13% of the current market share 7 for that product? 8 MR. DIAMANTATOS: Objection; form, foundation. 9 MR. ROTH: Objection; form. 10 BY THE WITNESS: 11 A. Of that -- 12 BY MR. MELAMED: 13 Q. You said it was self-explanatory. I -- 14 it's not self-explanatory to me. 15 A. Yeah. 16 Q. So I want to make sure I understand. 17 A. No, fair enough. 18 The fentanyl patch category, all types. 19 Q. Brand and generics? 20 MR. ROTH: Object to form, lacks foundation, 21 calls for speculation. 22 BY THE WITNESS: 23 A. I'm not quite sure if he was including 24 brands in it or it was just the generics, generics</p>
<p style="text-align: right;">Page 99</p> <p>1 only. 2 BY MR. MELAMED: 3 Q. Okay. And then the "Target Share" would 4 represent the additional percentage, share 5 percentage, that was being set as a target for that 6 product? 7 MR. DIAMANTATOS: Objection; form, foundation. 8 BY THE WITNESS: 9 A. I believe what they're doing this for 10 all the -- the products was looking at products 11 that they were able to grow and potentially what 12 they were, kind of the cap based upon supply, 13 supply chain, that what we had that we could 14 potentially, if the customers needed it, what we 15 could support. 16 BY MR. MELAMED: 17 Q. And, so, the first two needle movers 18 listed on this page are generic opioid product 19 families, correct? 20 A. I'm sorry. 21 MR. DIAMANTATOS: Objection. I'm sorry. Go 22 ahead. 23 BY MR. MELAMED: 24 Q. The first two needle movers listed on</p>	<p style="text-align: right;">Page 100</p> <p>1 this page are opioid product families, correct? 2 MR. DIAMANTATOS: Objection; form, foundation. 3 BY THE WITNESS: 4 A. They are both -- yeah, both C-II 5 products for pain. If I understand, yeah. 6 BY MR. MELAMED: 7 Q. What do you mean by C-II? 8 A. I think it's the DEA. It's either DEA 9 or FDA regulates the products. So, it's a control 10 II substance. 11 Q. Okay. Is that synonymous with 12 Schedule II? Have you heard that phrase? 13 A. Yeah, I guess it would be, yes. 14 Q. All right. And if you turn to the next 15 page, 3276, it lists a series of team goals. And I 16 want to ask about the fourth bullet point. It 17 says, "Develop by midyear a Suspicious Order Report 18 for all DEA products across all manufacturing 19 sites." 20 Prior to 2011 did Actavis have a 21 suspicious order report for any of its products? 22 MR. DIAMANTATOS: Objection; form, foundation. 23 BY THE WITNESS: 24 A. Since it wasn't my area of expertise,</p>

1 I'm not quite sure when -- when it came into place.  
2 BY MR. MELAMED:

3 Q. Did you have any role to play in the  
4 suspicious order reporting -- let me withdraw that.

5 During the entirety of your time at  
6 Actavis, have you had any role in the suspicious  
7 order reporting protocols established?

8 A. Protocols established, no.

9 Q. Do you have any understanding of why  
10 this bullet point talks about developing a  
11 suspicious order report across all manufacturing  
12 sites?

13 MR. DIAMANTATOS: Objection; form, calls for  
14 speculation, foundation.

15 BY THE WITNESS:

16 A. No, I don't have that -- I don't have  
17 that knowledge.

18 BY MR. MELAMED:

19 Q. Do you recall any discussion at this  
20 time period of a suspicious order report  
21 responsibility from the sales side?

22 A. I'm sorry. One more time. I want to  
23 make sure I heard it correctly.

24 Q. Do you recall any discussion at this

1 time period of developing a suspicious order report  
2 on the sales side? This bullet refers to  
3 manufacturing sites.

4 MR. ROTH: Object to form, lacks foundation,  
5 calls for speculation, completely vague.

6 BY THE WITNESS:

7 A. Yeah, I've not -- I guess I'm not fully  
8 understanding the -- as far as the question because  
9 I -- and part and parse of it is because I'm not --  
10 I wasn't involved insofar as the suspicious order,  
11 the SOMS program. So, I don't know which  
12 departments or which areas that it covered and/or  
13 when.

14 BY MR. MELAMED:

15 Q. So, do you have any understanding of how  
16 the suspicious order monitoring program worked at  
17 Actavis?

18 MR. DIAMANTATOS: Objection; form, vague.  
19 BY THE WITNESS:

20 A. So, when you say how it worked, like  
21 what captured their attention? I don't know the  
22 mechanisms. I don't know the metrics. I don't  
23 know I guess how things were set up, what triggers,  
24 what -- the microbes, I don't know.

1 BY MR. MELAMED:

2 Q. Did you have any responsibility for  
3 communication if something was flagged as a  
4 suspicious order?

5 A. If something was flagged, then there --  
6 orders would be held and they would be communicated  
7 to the customer and then I sometimes would get  
8 involved with a customer just to -- I'm the face of  
9 the -- of the company to the customer to say, "All  
10 right, these orders are being held. Here's the  
11 reasons why. We need -- we need to know why this  
12 is -- why your demand is higher than in the past."  
13 And I said, "With all that information," I said,  
14 "nothing is being released." And I said, "Once we  
15 receive that, then the internal team will analyze  
16 that to see if that's sufficient or if they -- if  
17 it's not, then your orders will be cut."

18 Q. Did you take part in any of the  
19 determination of whether to release an order that  
20 had been flagged --

21 A. No.

22 Q. -- in the way you're describing?

23 A. No.

24 Q. Never?

1 A. No. It's their way. They understand  
2 it.

3 Q. Do you ever recall any of your customers  
4 having an order that was not released because it  
5 had been flagged and the reasons for the order that  
6 they provided were not sufficient?

7 A. Not to a specific customer. But it's  
8 happened over the years, yes.

9 Q. And you don't -- do you recall  
10 approximately how many times it's happened over the  
11 years to your customers?

12 A. No. I mean, it's -- it's numerous.

13 Q. It happened a lot?

14 MR. DIAMANTATOS: Objection; form.  
15 BY THE WITNESS:

16 A. I mean, it's more than once. I don't  
17 know, you know. Again, it's a number of years that  
18 you worked. There is a number of POs. There is a  
19 number of ways in SOMS. Let's put it.

20 The short answer of this is once the  
21 departments have identified that there's -- that  
22 there is a problem, the orders get stopped and they  
23 communicate to the customer.

24 And then sometimes I will get involved



1 as the face and explain why you're not getting this  
 2 product. Here's the reasons why. And we need  
 3 this, this, this and this. And I said once -- and  
 4 all decisions are final from our internal  
 5 department and, you know, if they don't want to  
 6 share the information, then you know what? Then  
 7 they're cut off.  
 8 Q. Did any of your customers not want to  
 9 share the information that you required to consider  
 10 whether to release an order?  
 11 A. I --  
 12 MR. DIAMANTATOS: Objection; form. Sorry. Go  
 13 ahead.  
 14 BY THE WITNESS:  
 15 A. I don't remember that occurring of them  
 16 refusing to share the information.  
 17 BY MR. MELAMED:  
 18 Q. Do you recall any orders that once  
 19 flagged and the information was then provided by  
 20 the customer were not shipped?  
 21 MR. DIAMANTATOS: Objection; form.  
 22 BY THE WITNESS:  
 23 A. If -- if the information they provided  
 24 was not sufficient enough to grant comfort for our

1 Q. And do you know whether Actavis was a  
 2 member at any time from 2007 to present?  
 3 A. Yes. They were.  
 4 Q. Do you know whether -- was Actavis a  
 5 member the entirety of the time from 2007 to  
 6 present?  
 7 A. Best of my knowledge, yes.  
 8 Q. Okay. And do you know whether it's a  
 9 paid membership?  
 10 A. That I'm unaware of.  
 11 Q. Did you ever attend any NACDS events?  
 12 A. Yes.  
 13 Q. Did you attend more than one?  
 14 A. In what time frame?  
 15 Q. From 2007 to present.  
 16 A. Okay. I'm sorry.  
 17 Q. That's okay.  
 18 A. Yes.  
 19 Q. Did you attend NACDS events  
 20 periodically?  
 21 A. I was -- ones I've attended would have  
 22 been on the annual basis.  
 23 Q. Okay. About how many annual NACDS  
 24 events did you attend?

1 SOMS person, yes, then it would not be shipped.  
 2 BY MR. MELAMED:  
 3 Q. Do you recall any circumstances where  
 4 that happened?  
 5 A. Specifically, no.  
 6 MR. MELAMED: We can go off the record.  
 7 THE VIDEOGRAPHER: We are off the record at  
 8 10:45 a.m.  
 9 (WHEREUPON, a recess was had  
 10 from 10:45 to 11:10 a.m.)  
 11 THE VIDEOGRAPHER: We are back on the record  
 12 at 11:10 a.m.  
 13 BY MR. MELAMED:  
 14 Q. Are you familiar with the NACDS,  
 15 National Association of Chain Drug Stores?  
 16 A. Yes.  
 17 Q. Can you explain what it is?  
 18 A. Best of my knowledge, it's -- it's  
 19 the -- it's an association of all the national  
 20 chain drugstores in the -- I think it's primarily  
 21 the U.S.  
 22 Q. Is it a membership organization, if you  
 23 know?  
 24 A. I believe so, yes.

1 A. In 2007 to I guess through '18?  
 2 Q. Um-hmm.  
 3 A. I would say -- when was my child -- best  
 4 of my -- we had a hurricane. I think best to the  
 5 knowledge, every one with the exception of the year  
 6 of when my -- my little one was born. So it would  
 7 have been 2008.  
 8 Q. Can you identify other individuals at  
 9 Actavis who were active participants in NACDS  
 10 meetings?  
 11 MR. DIAMANTATOS: Objection; form, foundation.  
 12 BY THE WITNESS:  
 13 A. So, you're asking who attended?  
 14 BY MR. MELAMED:  
 15 Q. Well, let me start with this. Do you  
 16 know who was primarily responsible for the  
 17 relationship between Actavis and NACDS?  
 18 MR. DIAMANTATOS: Objection; form.  
 19 BY THE WITNESS:  
 20 A. To help me better understand. What do  
 21 you mean relationship between the two?  
 22 BY MR. MELAMED:  
 23 Q. Sure. So, Actavis was a member,  
 24 correct? That's what you said?

1 A. Yes. We attended the meetings.  
 2 Q. Okay. Who -- was there anybody who was  
 3 responsible for the decision that Actavis would be  
 4 a member at NACDS?  
 5 A. So, the question, who would be making  
 6 the decisions if we would attend the meeting?  
 7 Q. Let's start with membership. Like who  
 8 made the decision, if you know, who made the  
 9 decision that Actavis be a member of NACDS?  
 10 A. Again, I don't know like membership. I  
 11 don't know if there is a membership, if --  
 12 Q. Okay.  
 13 A. How that goes. So that that piece I'm  
 14 not -- I don't know how it works.  
 15 Q. Fair enough. Who made the decision that  
 16 Actavis would attend annual NACDS meetings?  
 17 A. I don't. You know, I don't know if it  
 18 came from one person or if it was a committee. So,  
 19 I'm not sure to be able to answer that question  
 20 because I'm not sure again if it comes down to one  
 21 individual or if it's a group of upper management.  
 22 Q. Were you told to attend the meetings?  
 23 Was it a requirement of your job to attend the  
 24 meetings?

1 MR. DIAMANTATOS: Objection; form, foundation.  
 2 BY MR. MELAMED:  
 3 Q. I'm sorry. Not drugstores. Pharmacies.  
 4 MR. DIAMANTATOS: Objection; form, foundation.  
 5 BY THE WITNESS:  
 6 A. Sorry. Can you just say it one more  
 7 time.  
 8 BY MR. MELAMED:  
 9 Q. The primary purpose of Actavis -- let  
 10 me -- I'll restate the question.  
 11 A. Okay.  
 12 Q. Is your understanding of the primary  
 13 purpose of Actavis' attendance at the annual  
 14 meetings to engage in the meetings you were  
 15 discussing with its -- with your customers?  
 16 MR. ROTH: Object to form.  
 17 BY THE WITNESS:  
 18 A. The -- well, the form of it is together,  
 19 that you have your customers there so you meet with  
 20 them as well as you have internal meetings  
 21 because -- we are spread out throughout the nation,  
 22 so it affords that opportunity for everyone to be  
 23 together as well.  
 24 BY MR. MELAMED:

1 MR. ROTH: Object to form.  
 2 BY THE WITNESS:  
 3 A. I don't know if it was a requirement.  
 4 It was a meeting that we -- that was -- the group  
 5 of, you know, obviously chain drugstores and  
 6 manufacturers. So, it was a meeting that you, I  
 7 guess you went to.  
 8 BY MR. MELAMED:  
 9 Q. What happened at those meetings? In a  
 10 general sense. I'm not asking you to remember  
 11 specific presentations. But generally, you know,  
 12 what kind of events occurred during the annual  
 13 meetings?  
 14 A. It's during those -- it's meetings  
 15 really, it's interactions with -- so, it's a forum  
 16 which allows really for all members, so that would  
 17 be the retailers as well as wholesalers that would  
 18 attend, to effectively and efficiently meet and  
 19 have business discussions all in one place versus  
 20 flying all over the nation.  
 21 Q. So, is it fair to say that the primary  
 22 purpose of attending -- of Actavis' attendance at  
 23 the NACDS annual meetings was to have personal  
 24 meetings with wholesalers and/or drugstores?

1 Q. And about how many customers would you  
 2 meet with at an annual meeting?  
 3 A. Personally or as a company?  
 4 Q. Let's start with personally.  
 5 A. I guess it's depending on my -- who the  
 6 I guess customer base was. Could be eight and  
 7 above, could be more.  
 8 Q. And as a company, approximately, again,  
 9 I'm not asking you to identify each of the entities  
 10 you met with during any particular meeting, but  
 11 approximately how many customers would Actavis as a  
 12 company meet with at one of these annual meetings?  
 13 A. Six hours, 12 hours. Maybe there was,  
 14 let's say, 18 hours of open -- I don't know. I'm  
 15 estimating if it was 18 or 20 in 30-minute time  
 16 slots. So, could be up to 40.  
 17 Q. And would people -- would there be  
 18 meetings with multiple customers occurring at the  
 19 same time period with different Actavis employees?  
 20 A. Separately.  
 21 Q. Separate meetings. So, for instance,  
 22 just to talk about time slots. If there was a 9:00  
 23 a.m. time slot and it was a half hour, is it  
 24 possible that Actavis would meet with more than one

1 customer during that 9:00 a.m. time slot through  
 2 separate meetings?  
 3 MR. DIAMANTATOS: Objection; form, foundation.  
 4 BY THE WITNESS:  
 5 A. There -- what I would have been witness  
 6 to is like sometimes the booth had two separate  
 7 meeting areas. So, potentially, yes, you could  
 8 have a meeting with one customer in an isolated  
 9 room and then you have another meeting with a  
 10 separate, with different Actavis personnel with a  
 11 separate company in a separate isolated room.  
 12 BY MR. MELAMED:  
 13 Q. Did Actavis ever meet with more than one  
 14 entity at the same time during these meetings?  
 15 MR. DIAMANTATOS: Objection; form, foundation,  
 16 calls for speculation.  
 17 BY THE WITNESS:  
 18 A. So, what do you mean "more than"?  
 19 BY MR. MELAMED:  
 20 Q. Let me rephrase the question slightly.  
 21 As far as you know, did Actavis ever  
 22 meet with more than one of its customers at the  
 23 same time during these NACDS meetings?  
 24 MR. DIAMANTATOS: Same objections.

1 contracts are coming up. So, again, you have  
 2 your -- the right personnel in the room to have  
 3 those discussions and kind of draft out and shift  
 4 through what both parties are amenable and able to  
 5 live with.  
 6 It could also be a, you know, talking  
 7 about the current -- the current business, and as I  
 8 think I touched on earlier before, there are some  
 9 products that potentially they said they needed X  
 10 amount of product and we manufactured it and the  
 11 numbers aren't where they are. So, we need to have  
 12 just clarification with them to say, all right, do  
 13 we need to adjust our manufacturing because your  
 14 demand is not what you thought it would be or is  
 15 there something, you know, systematically not  
 16 correct.  
 17 So, it's -- it's those I guess kind of  
 18 a -- like would be an example of three different  
 19 things that we would have a conversation with.  
 20 Q. And, to your knowledge, did Actavis --  
 21 at these annual meetings.  
 22 A. Okay.  
 23 Q. Did Actavis have individual meetings  
 24 with McKesson?

1 BY THE WITNESS:  
 2 A. Separately?  
 3 BY MR. MELAMED:  
 4 Q. No, at the same -- together at the same  
 5 time. Like, for instance --  
 6 A. In the same room.  
 7 Q. Yes. Did Actavis ever meet with --  
 8 A. To my knowledge, no.  
 9 Q. Okay. And what was the purpose of these  
 10 meetings?  
 11 To be clear about which meetings I'm  
 12 talking about, the individual meetings, the  
 13 one-on-one meetings with your customers that  
 14 occurred during the NACDS annual meetings.  
 15 A. Okay.  
 16 Q. What was the purpose of those individual  
 17 meetings?  
 18 A. Okay. It varied by customer. I mean,  
 19 it could be a -- there is some -- there is some  
 20 back-end, meaning finance, open items that need the  
 21 proper parties in one room to figure through and  
 22 negotiate and come to an agreement and then move  
 23 on.  
 24 It could be also contractual, maybe new

1 A. I personally did not call on McKesson.  
 2 I would think that we did.  
 3 Q. Okay. AmerisourceBergen?  
 4 A. Yes.  
 5 Q. And you personally did call on  
 6 AmerisourceBergen?  
 7 A. At a particular time, yes.  
 8 Q. What time period did you call on  
 9 AmerisourceBergen? And if you don't remember the  
 10 exact dates, approximate, as close as you can get.  
 11 A. I believe it may have started with or  
 12 close to that of when I was hired in, was it '07?  
 13 Is that what you said? In Actavis. And then may  
 14 have ended, was it '13 when Watson, is that what  
 15 you said, bought, bought us? Whenever Watson  
 16 bought Actavis, then that -- that is when it kind  
 17 of ended my -- my calling on AmerisourceBergen.  
 18 Q. And so your answer is that, yes, during  
 19 those annual NACDS meetings somebody from Actavis  
 20 would meet with somebody from AmerisourceBergen?  
 21 A. The likelihood of that we met each time  
 22 is pretty good, yes.  
 23 Q. And were you involved in any of those  
 24 meetings personally?

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1 A. I would have attended those meetings if  
 2 I would -- yeah, if I was at the NACDS meeting.  
 3 Q. What about Cardinal Health?  
 4 A. No, I did not have any interaction with  
 5 them.  
 6 Q. Do you know whether Actavis had  
 7 individual meetings with Cardinal Health during the  
 8 annual NACDS meetings?  
 9 A. At this particular time I don't -- I  
 10 can't recall like with 100 percent certainty that  
 11 we did. It would make sense with your key  
 12 customers and they're there that you would.  
 13 Q. What about Walgreens?  
 14 A. Yes, we did.  
 15 Q. And did you personally call on Walgreens  
 16 for a period of time at Actavis?  
 17 A. For a period of time at Actavis, yes.  
 18 Q. Do you recall that period of time? Is  
 19 it the same period of time as AmerisourceBergen?  
 20 A. No. It was later, later on. But I'm  
 21 not sure what year that I started calling on  
 22 Walgreens.  
 23 Q. And did that responsibility to call on  
 24 Walgreens end at the time of the Watson

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1 AmerisourceBergen and then later on, with the  
 2 addition of Walgreens to my coverage, then  
 3 Walgreens.  
 4 BY MR. MELAMED:  
 5 Q. And I asked you before if you could  
 6 recall -- I'm sorry. If you're trying to remember  
 7 something.  
 8 A. No, yeah, I'm just trying to think.  
 9 Walgreens. May have -- may have CVS.  
 10 Q. Did you -- you're not sure whether you  
 11 had the responsibility to call on CVS as you sit  
 12 here right now?  
 13 A. I -- I called on them during the --  
 14 during the Actavis time frame. I'm just -- I'm  
 15 unclear of when, when that frame was. But I did  
 16 call on them.  
 17 Q. And is it accurate to say that CVS was  
 18 a, you know, along with Walgreens and  
 19 AmerisourceBergen, amongst the largest of your  
 20 customers that you had responsibility for calling  
 21 on when you called on them?  
 22 MR. DIAMANTATOS: Objection; form.  
 23 BY THE WITNESS:  
 24 A. They are -- they were three of the

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1 acquisition?  
 2 A. No, it continued on.  
 3 Q. Does it continue through to today?  
 4 A. Yes.  
 5 Q. Who were your largest customers at  
 6 Actavis?  
 7 MR. DIAMANTATOS: Objection; form.  
 8 BY MR. MELAMED:  
 9 Q. In terms of net sales.  
 10 MR. DIAMANTATOS: Same objection.  
 11 BY THE WITNESS:  
 12 A. Okay. So when you say "you," me  
 13 personally?  
 14 BY MR. MELAMED:  
 15 Q. Yes. Who were the largest -- let me  
 16 rephrase that.  
 17 A. Okay.  
 18 Q. Who were the largest customers you were  
 19 responsible for calling on at Actavis in terms of  
 20 net sales?  
 21 MR. DIAMANTATOS: Objection; form.  
 22 BY THE WITNESS:  
 23 A. I don't have the numbers in front of me.  
 24 One could surmise that it would have been

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1 larger, larger customers. So, if you mirror up  
 2 your portfolio list and if they choose you to be a  
 3 partner, yes, they could be three of the largest  
 4 within.  
 5 Again, it's just because they're large  
 6 doesn't mean that they are large within your  
 7 company, if that makes sense.  
 8 BY MR. MELAMED:  
 9 Q. I just want to understand that  
 10 clarification. Just because they're large in the  
 11 industry doesn't mean they're large in terms of  
 12 their relationship with Actavis. Is that what  
 13 you're saying?  
 14 A. Correct, yes.  
 15 Q. Do you recall whether they were a large  
 16 customer of Actavis?  
 17 MR. DIAMANTATOS: Objection; form.  
 18 BY THE WITNESS:  
 19 A. I don't know how we're defining large.  
 20 I just want to make sure, again, that I'm answering  
 21 to what you're looking for.  
 22 BY MR. MELAMED:  
 23 Q. That's fair.  
 24 A. Okay.

1 Q. You had defined big customers before and  
2 you had said AmerisourceBergen, McKesson and  
3 Cardinal Health were big customers of Actavis,  
4 correct?

5 MR. DIAMANTATOS: Objection; form,  
6 mischaracterizes testimony.

7 BY THE WITNESS:

8 A. I believe what we were talking about at  
9 that time, and I could be wrong, but it was  
10 regarding chargebacks and who the large customers  
11 would be and those are, like I said, the three big  
12 as far as the wholesalers.

13 So, that's I guess is what I am kind of  
14 referring to is that when it comes to the  
15 chargebacks, those three are the three big  
16 wholesalers.

17 BY MR. MELAMED:

18 Q. Okay. Do you recall whether CVS had a  
19 chargeback relationship with Actavis?

20 MR. ROTH: Object to form, lacks foundation,  
21 calls for speculation.

22 BY THE WITNESS:

23 A. I -- they were direct, but I believe, if  
24 I'm recalling correctly, there was chargebacks for

1 indirect contracts loaded at wholesalers.

2 BY MR. MELAMED:

3 Q. Does that answer mean that there were  
4 chargebacks for indirect contracts with CVS?

5 MR. DIAMANTATOS: Objection; form.

6 BY MR. MELAMED:

7 Q. I'm just trying to understand. You  
8 said -- let me withdraw and I'm just asking you to  
9 explain your answer.

10 Your answer was, "They were direct, but  
11 I believe, if I'm recalling correctly, there were  
12 chargebacks for indirect contracts loaded at  
13 wholesalers," and the question was specific to CVS.

14 Can you explain how -- how that answer  
15 pertains to CVS and any chargeback relationship it  
16 had or did not have with Actavis?

17 MR. DIAMANTATOS: Objection; foundation.

18 BY THE WITNESS:

19 A. So, here's what I do know is that any  
20 time there is a, for instance, specific to it could  
21 be CVS, anyone, you only have X amount of square  
22 footage in your -- in your warehouse, right? So,  
23 you cannot, very rarely are you going to stock  
24 every product known to mankind in that space.

1 So, it's all about, you know, I'm sure  
2 they have metrics, why they decide to load some  
3 things in their warehouse and carry direct and  
4 others to pull through the wholesaler.

5 So, for those products that did not make  
6 sense to bring in direct, then they had their  
7 wholesalers stock it and then we would load the  
8 indirect contracts.

9 So, the CVS individual stores could get  
10 still the product. They would just pull it from  
11 the wholesaler, and then that would create this  
12 chargeback that we were kind of talking about  
13 before that, oh, you know what, this bottle went to  
14 CVS.

15 Q. Okay. One further question on the  
16 chargebacks.

17 The scenario we were talking about  
18 before, do you remember we were -- it was a  
19 hypothetical --

20 A. Okay.

21 Q. -- where the wholesaler acquired a  
22 product from Actavis for \$10.

23 A. Okay.

24 Q. Sold it for \$9 and they would provide

1 documentation to get the \$1 repayment. Is that  
2 correct?

3 A. Yes.

4 Q. Do you know whether those reports would  
5 also reflect transactions where the same wholesaler  
6 bought the same product for \$10 but managed to  
7 resell it for a profit?

8 A. So, in your -- so, profit.

9 Q. They bought it for \$10 and sold it for  
10 \$11. Would that show up --

11 A. Oh.

12 Q. -- on the report that you received, the  
13 chargeback report that you received?

14 A. I don't know.

15 Q. Who would know? Who would be the right  
16 person to ask about these chargeback questions?

17 MR. DIAMANTATOS: Objection; foundation.

18 BY THE WITNESS:

19 A. I guess whoever was handling  
20 chargebacks. I mean, if you think through how  
21 chargebacks work, it's negative, meaning anything  
22 below. There is a delta.

23 So, here's -- I guess ultimately you  
24 think through how this works. You're buying it at,



1 let's say yourself, you're buying it at 10. You  
 2 sell it at 9. You're going to want that one  
 3 dollar, right? You sell it at 11, you bought it at  
 4 10. I -- so, I don't know if that happens.  
 5 Q. Right.  
 6 A. It's -- you know.  
 7 Q. I understand that I wouldn't, in the  
 8 scenario you are describing, I wouldn't necessarily  
 9 be entitled to the chargeback. I was just  
 10 wondering whether that information concerning that  
 11 transaction was also provided back to Actavis.  
 12 A. I'm unaware. Yeah, sorry.  
 13 Q. Fair enough. You said before you don't  
 14 know the individuals who were responsible for the  
 15 relationship between Actavis and NACDS. But was  
 16 there a particular group within Actavis, was it  
 17 senior management who decided that Actavis should  
 18 be a member of NACDS?  
 19 MR. DIAMANTATOS: Objection; form, foundation,  
 20 asked and answered.  
 21 BY THE WITNESS:  
 22 A. There -- again, there may have been a  
 23 group. I just -- I don't know as far as  
 24 identifying who within -- who was within that

1 from Jinping McCormick to GRiedl@AMSrep.com, sent  
 2 April 19, 2012, subject is NACDS Actavis deck.  
 3 That's ACTAVIS0302153 and then that  
 4 e-mail string continues through 2156, and then  
 5 there are attachments thereto. One is just a  
 6 signature image at 2157, and then an attachment  
 7 referred to as NACDS annual Walgreen 4-2012.pdf,  
 8 which is ACTAVIS0302158 and continues through 2161.  
 9 A. Okay.  
 10 MR. DIAMANTATOS: Matt, I'm going to just  
 11 object to the extent that subject line changes. I  
 12 think you referred to it by one subject as being  
 13 the entire subject. Just note that's not the case  
 14 on the exhibit.  
 15 MR. MELAMED: Fair enough.  
 16 BY MR. MELAMED:  
 17 Q. You see that you are a participant until  
 18 the last-in-time e-mail in the e-mail exchanges  
 19 going back.  
 20 Do you see that?  
 21 MR. ROTH: Object to form.  
 22 BY MR. MELAMED:  
 23 Q. Let me clarify. You're not in all of  
 24 them. Let's start on the first page and go back in

1 group.  
 2 BY MR. MELAMED:  
 3 Q. Did you ever receive any policies or  
 4 procedures governing your participation in NACDS  
 5 annual meetings?  
 6 A. From?  
 7 Q. Did Actavis ever provide you any  
 8 policies or procedures governing your participation  
 9 in the NACDS meetings?  
 10 A. Not that I'm aware of, no.  
 11 Q. Do you know whether the NACDS had any  
 12 working subcommittees or groups to address  
 13 industry-wide issues?  
 14 A. Personally, I don't know if they did.  
 15 Q. I'm going to hand you what's been marked  
 16 as Exhibit 4.  
 17 (WHEREUPON, a certain document was  
 18 marked as Allergan-Dorsey Exhibit  
 19 No. 4: 4/19/12 e-mail string with  
 20 attachment; ACTAVIS0302153 -  
 21 0302161.)  
 22 BY MR. MELAMED:  
 23 Q. Exhibit 4 is an e-mail string and  
 24 attachment thereto. The last-in-time e-mail is

1 time, and I'll just walk you through.  
 2 You see that on the e-mail dated  
 3 April 18, 2012 from George Riedl, you are an  
 4 addressee, Michael Dorsey and Michael Perfetto.  
 5 And it says, "Mike can you e-mail a copy of the  
 6 NACDS deck tomorrow," et cetera. Correct?  
 7 A. So the bottom of the page of 153?  
 8 Q. Yes.  
 9 A. Yes.  
 10 Q. And you see you're also a sender of an  
 11 e-mail on the middle of the page 154.  
 12 Do you see that?  
 13 A. So, dated April 18, 2012? That one?  
 14 Q. Correct.  
 15 A. Okay. Yes.  
 16 Q. And that you are also a recipient of the  
 17 e-mail at the top of 155 dated April 16, 2012?  
 18 A. I see that, yes.  
 19 Q. Do you have any reason -- let me start  
 20 a different question.  
 21 Do you recall those -- receiving those  
 22 e-mails?  
 23 A. No.  
 24 Q. You have no recollection of these



1 e-mails?

2 A. No. I mean, outside of seeing it now.

3 Q. Do you have any reason to believe that  
4 you did not receive and send the e-mails that  
5 were -- indicate they were received by and sent by  
6 you?

7 MR. DIAMANTATOS: Objection; form.

8 BY THE WITNESS:

9 A. I mean, as it -- as it states on this,  
10 these, you know, documents, I guess I'm -- there  
11 are some that I've sent, some that I received. So,  
12 based upon this, how it's submitted, then yeah,  
13 I'm -- I would agree that I'm party to receive and  
14 send.

15 BY MR. MELAMED:

16 Q. And concerning your participation in  
17 this e-mail exchange, it concerned matters within  
18 the scope of your employment at Actavis, correct?

19 A. I'm sorry. One more time.

20 Q. Within -- concerning your participation  
21 in this e-mail exchange.

22 A. Okay.

23 Q. The content of that exchange related to  
24 your job responsibilities at Actavis?

1 which is the first one at the top of 153?

2 A. Okay.

3 Q. And it's from Jinping McCormick. It  
4 says, "George, Attached please find the NACDS deck  
5 for Walgreens discussion"?

6 A. Yep.

7 Q. And do you recall that a few minutes ago  
8 you testified that you regularly met with customers  
9 during NACDS annual meetings?

10 A. So, let's just take a pause here. So,  
11 there is two -- so, NACDS, there is an NACDS annual  
12 meeting, which is the -- it looks like it was  
13 probably sometime in April. So, that's the -- and  
14 that's what I call the bigwigs, anyone that above  
15 my -- above myself.

16 And then there is an annual NACDS  
17 meeting, which we were kind of -- we were talking  
18 about before. So, it just happens, I guess for  
19 lack -- point of clarification, maybe happens once  
20 a year and that's more in like the August time  
21 frame. That's the one that I attend with the  
22 exception of the birth of my newborn. Then that's  
23 the one I attend.

24 This is the annual -- what they call the

1 MR. ROTH: Object to form.

2 BY MR. MELAMED:

3 Q. Correct?

4 A. It's -- it's more -- it's my  
5 understanding from skimming this real quick, it's  
6 a -- it's a discussion. So, it's prepping for a --  
7 prepping for a meeting that I'm not attending.  
8 It's the NACDS annual that I'm not attending. So,  
9 it's looking for inputs is my understanding of  
10 this, what this e-mail is.

11 Q. And providing that input was part of  
12 your job at Actavis, correct?

13 A. Providing, yes, if -- because I'm more  
14 of the -- I'm closer to the day-to-day, so if there  
15 was anything that would come up, percolate up to  
16 senior management, they would like to be aware of  
17 it so they could address it.

18 Q. You mentioned that you were not part of  
19 the meeting that this deck was prepared for. Is  
20 that correct?

21 A. Correct.

22 Q. Do you know who was?

23 A. No, not with 100 percent certainty.

24 Q. So, do you see the last-in-time e-mail,

1 NACDS annual. Does that make a little --

2 Q. It makes sense. I just want to make  
3 sure I understand.

4 A. Yeah, yeah.

5 Q. You used "the annual" twice in two  
6 different contexts.

7 A. I know.

8 Q. I just want to...

9 Am I correct to say that there are two  
10 NACDS annual meetings, one is a -- was attended by  
11 higher level employees of Actavis than you and one  
12 which people at the national sales director level  
13 attended and met with Actavis customers?

14 A. In addition to others above us on  
15 August, yes.

16 Q. And that the August or around  
17 August time frame --

18 A. Yeah.

19 Q. -- annual meetings were the ones that  
20 you personally attended?

21 A. Correct.

22 Q. With the exception of when your son was  
23 born.

24 A. Yeah.

1 Q. And the April or thereabouts annual  
2 meetings, you did not attend and people above you  
3 on the org chart attended on Actavis' behalf?

4 A. Yes.

5 Q. Was Ms. McCormick above you in the  
6 organizational chart at Actavis?

7 A. She -- what did she do? I believe she  
8 was the head of our marketing. So, marketing was,  
9 you know, like I think a lot of companies, you have  
10 sales, you have sales and marketing. So, I don't  
11 know where to put her.

12 Q. Do you know whether she attended this  
13 April 2012 NACDS meeting?

14 A. I do not.

15 Q. Is Mr. Perfetto the hierarchical level  
16 of individual who would have attended these -- the  
17 April annual meetings on Actavis' behalf?

18 A. He would, as a, I think it was VP or  
19 senior VP, then, yes, it would make sense for him  
20 to be at these meetings.

21 Q. Turning to the attachment, which starts  
22 at 2158 and then continues through 2161, did you  
23 assist in preparing this attachment at all?

24 A. This looks like it's a culmination of

1 our marketing team putting together a general  
2 snapshot of Actavis at that -- at that particular  
3 time. And then who would pull -- I don't know if  
4 it would be someone of our analysts then would pull  
5 data on the overall sales of this particular  
6 customer, which at this time here it's Walgreens,  
7 and then what those -- those products are, they  
8 would dive down into it and then create this as to  
9 a presentation for at the meeting.

10 Q. And once that presentation was drafted,  
11 was it provided to you to review?

12 A. I believe -- was I on this one? They  
13 would provide -- I mean, there is questions I  
14 think, like here it said, when I was asked if there  
15 is anything that I would have an input, I said,  
16 "Nothing major from my perspective. Closing the  
17 Ropinirole ER today and working on the VIR."

18 So, it's more -- they'll interject when  
19 they come to these higher level meetings, they'll  
20 ask on, all right, is there any day-to-day  
21 information that we should be aware of that should  
22 it come up in conversation, we're not blindsided.  
23 We have the information. We can speak to it.

24 Q. Just to be clear, if you turn to 2155,

1 which is in the string of e-mails and the bottom  
2 e-mail is from Allison Metz?

3 A. Yep.

4 Q. You see it says, "Mike looks forward to  
5 meeting with you and your team at NACDS annual on  
6 Saturday the 21st at 1:30 p m."

7 A. Okay.

8 Q. Do you understand -- that was not you,  
9 that is, the Mike being referred to, is that  
10 correct?

11 A. Correct. That's not myself.

12 Q. Do you understand that to be referring  
13 to Mike Perfetto?

14 A. If it's between one of us, two Mikes, it  
15 was not me.

16 Q. Okay.

17 A. So that would leave Mike.

18 Q. If you continue and you go one  
19 page prior, going forward in time, 2154, there is  
20 an e-mail from Michael Perfetto to George Riedl  
21 cc'ing John Faerber.

22 A. Okay.

23 Q. And Mike Perfetto says, "I will have a  
24 prepared presentation. SOM - is one key issue to

1 disx," which I assume is an abbreviation for  
2 discuss.

3 Do you have any understanding of why SOM  
4 was one key issue to discuss?

5 MR. DIAMANTATOS: Objection; form, foundation.  
6 BY THE WITNESS:

7 A. No, I do not.

8 BY MR. MELAMED:

9 Q. Do you remember discussing Actavis'  
10 suspicious order monitoring program as it pertained  
11 to Walgreens around April 2012?

12 MR. DIAMANTATOS: Objection; form.

13 BY THE WITNESS:

14 A. No. Based upon what I'm reading here  
15 and my recollection, no.

16 BY MR. MELAMED:

17 Q. And then just going back, sorry, to the  
18 attachment, the last page of the attachment is  
19 2161. 2160 and 61 are labeled "Company Highlights"  
20 and the last of the headers on 2161 says, "Robust  
21 Advertising and Marketing Programs."

22 Did you participate in any of these  
23 marketing or advertising programs described?

24 MR. DIAMANTATOS: Objection; form.

1 BY THE WITNESS:  
 2 A. No. What it appears based upon the  
 3 document here, it's in a formative conversation to  
 4 the customers of some of the -- it looks like --  
 5 well, I don't want to read it verbatim, but print  
 6 advertising, direct mail, print and electronic for  
 7 Clobetasol lotion and shampoo and it's more kind of  
 8 an informative letting -- letting the market know  
 9 that there is an inexpensive generic available to  
 10 the brand in the marketplace.  
 11 Q. Do you see the last major bullet point  
 12 there is labeled "Oxymorphone HCl ER tablets." Do  
 13 you see that?  
 14 A. Yes.  
 15 Q. Do you recall any of the advertising and  
 16 marketing programs that are described in the  
 17 subbullet point underneath "Oxymorphone HCl ER  
 18 tablets"?  
 19 A. I guess nothing with any clear, you  
 20 know, clarity as far as, you know, what it all  
 21 entailed.  
 22 Q. Do you remember whether -- let me  
 23 restate that.  
 24 Do you recall a marketing and

1 but whenever there is any product that gets --  
 2 there is an FDA approval on it, there is  
 3 notification that goes out to the marketplace and  
 4 you get -- you field calls from your accounts, your  
 5 accounts ask questions.  
 6 So, under that scenario, yes, our  
 7 accounts would have known about it and I would have  
 8 answered their questions.  
 9 Q. What kind of questions would you get?  
 10 A. Typically of any product, they want to  
 11 know are you shipping, is it something you think  
 12 that we could work together on, you know, and  
 13 depending upon where it goes with that, then it's,  
 14 you know, pricing comes into play.  
 15 Q. What do you mean by -- can you flesh out  
 16 what you mean by "something we can work together  
 17 on"? When somebody approached you and said, for  
 18 instance, about oxymorphone HCl ER tablets  
 19 hypothetically, customer hears of the launch and  
 20 they contact you, correct, that's one possible  
 21 scenario?  
 22 A. Yeah.  
 23 Q. And in that they say to you, you said  
 24 they may say something about is this something we

1 advertising effort by Actavis time to coincide with  
 2 the launch of oxymorphone HCl ER tablets to promote  
 3 those tablets to its customers?  
 4 MR. DIAMANTATOS: Objection; form.  
 5 BY THE WITNESS:  
 6 A. I guess I'm just looking at this now.  
 7 It's kind of -- it's not triggering anything of,  
 8 oh, yeah, I remember this. I just -- what I'm  
 9 looking at, it looks like what it in essence it's  
 10 doing is that -- so, this must have been Opana ER.  
 11 It's bringing an awareness.  
 12 It's really -- it's used as a cost  
 13 savings tool for the whole entire market. Instead  
 14 of an expensive brand, saying there's an  
 15 FDA-approved, AB-rated product that's less  
 16 expensive based for the whole system.  
 17 So, I believe, based upon what I'm  
 18 reading here, that's what the intent was.  
 19 BY MR. MELAMED:  
 20 Q. Do you recall, did you provide any  
 21 communications to your customers about the  
 22 existence of an AB-rated Opana ER being introduced  
 23 by Actavis at or around this time?  
 24 A. I don't know if at or around this time,

1 can work on, right?  
 2 A. Yeah.  
 3 Q. What do you mean by "work on" in that  
 4 context?  
 5 A. Well, everyone -- every product takes on  
 6 its own. I mean, there's -- and, again, I don't  
 7 know specific whether it be on any of these three.  
 8 I mean, clobetasol lotion and shampoo are two  
 9 different ones. So, you launch a product and you  
 10 know from your supply chain how much that you  
 11 can -- you're able to support.  
 12 And there may be, when you talk with  
 13 customers, some customers they're interested, oh,  
 14 like, "You know what, I'm," for whatever reason, "I  
 15 would -- would prefer you to be my supplier of  
 16 choice. I've had bad supply. I've had," there is  
 17 an issue going, whatever.  
 18 There is others like, "You know what?  
 19 We're -- we're not at that level of interest at  
 20 this particular time."  
 21 So, it's just trying to figure that out  
 22 with the customers of, you know, who wants to, you  
 23 know, maybe take that, the next step.  
 24 Q. And would any of those discussions

1 include discussions of pricing for the product?

2 A. Eventually.

3 Q. So, you would negotiate, you may  
4 negotiate price with a customer for sale of a newly  
5 introduced product?

6 A. Well, yeah, they need to find out what  
7 they -- yeah. So, they're looking for a more  
8 affordable price, yes.

9 Q. And what about rebates, would you  
10 discuss rebates with customers?

11 MR. ROTH: Object to form.

12 BY THE WITNESS:

13 A. I don't believe rebates really -- no, I  
14 guess they know -- if there is a rebate structure I  
15 think through this, if there is a rebate structure,  
16 it is what it is. There is an agreement on. Some  
17 may have it. Some may not. But it's a net price.

18 BY MR. MELAMED:

19 Q. So, for those who had the rebate  
20 structure, were you a participant in negotiations  
21 on what those -- what the rebate structure would  
22 be?

23 MR. DIAMANTATOS: Objection; form, foundation.

24 BY THE WITNESS:

1 A. That was really, best of my  
2 recollection, kind of it's all driven by pricing  
3 and what the customer -- what the customer -- the  
4 structure they want. Some customers just want dead  
5 net pricing. So, you try to work with them.

6 BY MR. MELAMED:

7 Q. And for the customers that wanted  
8 rebates as part of their pricing model, you would  
9 engage in discussions if those customers were  
10 customers you called on, is that correct?

11 MR. DIAMANTATOS: Objection; form.

12 BY THE WITNESS:

13 A. I would be, I guess, I would look at it  
14 as the go-between to seek what their -- what  
15 they're asking for and how it's structured and then  
16 have that communication with our pricing, pricing  
17 team.

18 BY MR. MELAMED:

19 Q. And who led the pricing team at Actavis  
20 when -- in the circumstance where you'd have to  
21 negotiate a rebate?

22 A. It varies. I mean, whoever was the head  
23 of the pricing at, you know, between 2007 and '13.  
24 I guess it just changed over -- over time who that

1 was.

2 Q. It changed between 2007 and 2013?

3 A. I believe so, yes.

4 Q. Do you recall any of the individuals who  
5 were in that role between 2007 and 2013?

6 A. I thought Ara Aprahamian. Who is the  
7 last one? I'm trying -- there was someone in  
8 the -- I don't remember. I thought he was towards  
9 the end. There was someone I believe in before.  
10 And I'm just -- I'm unclear. Sorry.

11 Q. Just to clarify, when you mean before  
12 the end, you mean before the time that Watson took  
13 over?

14 A. Yes. Sorry.

15 Q. So, it was Ara?

16 A. Ara Aprahamian.

17 Q. Aprahamian, is that correct?

18 A. Yeah.

19 Q. For a period of time from 2007 up until  
20 the takeover, but there was -- but not all the way  
21 up until the takeover by Watson is that my  
22 understanding?

23 A. Flip-flop it. Sometime I think up and  
24 to the takeover. I just don't know when -- when

1 the begin date was.

2 Q. Got it.

3 A. So, work '13 backwards. I just don't  
4 know what that number is.

5 Q. So, just so the record is clear because  
6 I just made a hash of what I was trying to describe  
7 to you.

8 Ara was the person in charge -- who  
9 would be in charge of those negotiations on  
10 Actavis' side from 2013 working backwards until  
11 some point in time after 2007?

12 A. So, I guess -- I just don't want -- so  
13 how it would work was that it was -- it was just a  
14 combination. I was the in-between person. You  
15 have the conversation with the account. This is  
16 the -- what they're looking for. All that  
17 information gets feed into kind of the pricing,  
18 pricing team.

19 So, Ara heads it up. However, there is  
20 other individuals that fall underneath him and then  
21 you get different data points of different  
22 customers of what they're requesting and then there  
23 is a decision made of, all right, you know what, we  
24 can agree to this, we can't agree to this.

1 So, I hope that answers.

2 Q. Is there a difference between rebates  
3 and chargebacks?

4 A. To me it's numbers. I mean, I don't  
5 know technically if there is, how it's -- but  
6 it's -- I always say if you -- if the net price is  
7 \$10, whether you start at \$12 or you -- and end at  
8 10 or start at 10 and end at 10, however you get  
9 there, some customers just want it a different way.

10 Q. So, I think we talked before, and I just  
11 want to make sure I understand functionally how the  
12 chargeback would work and then I want to ask you  
13 how functionally in the parallel scenario how the  
14 rebate would work.

15 A. Okay.

16 Q. And correct me if I'm wrong. But  
17 functionally how a chargeback would work is  
18 hypothetically you have a product you're selling --  
19 the wholesaler buys it at 10. It then resells it  
20 at 9. It provides information back to Actavis, and  
21 Actavis provides them the one dollar difference  
22 between the \$9 resale amount and the \$10 initial  
23 sale amount, is that correct?

24 MR. ROTH: Object to form, lacks foundation,

1 calls for speculation.

2 MR. DIAMANTATOS: And asked and answered.

3 THE WITNESS: I'm sorry. What?

4 MR. DIAMANTATOS: Go ahead. You can answer.

5 THE WITNESS: Oh, okay. Sorry.

6 BY THE WITNESS:

7 A. So, I don't want to -- so, conceptually,  
8 yes, like I said, it's on a indirect, indirect  
9 contract that they're servicing. So, under that  
10 scenario, they would buy it at WAC at 10, sell it,  
11 support that indirect contract at \$9, and then  
12 submit the chargeback to the company for that  
13 dollar.

14 BY MR. MELAMED:

15 Q. Okay. And can you walk me through how a  
16 rebate scenario would work. In a hypothetical.  
17 I'm not talking about any particular drug. But  
18 just conceptually how it worked when you were at  
19 Actavis.

20 MR. DIAMANTATOS: Objection; form, foundation.  
21 Go ahead.

22 BY THE WITNESS:

23 A. I guess my interaction how I saw it was  
24 it was on the -- if you had -- there was a rebate.

1 It would be tied to the net, the net amount of  
2 units that were -- that were purchased.

3 BY MR. MELAMED:

4 Q. So, contract -- the WAC. I think you  
5 referred to it, would be -- let's say it's 10.

6 A. Okay.

7 Q. At a certain number of units, there  
8 would be a rebate paid out by Actavis to the  
9 wholesaler.

10 A. Okay. Good question. No. So, it's not  
11 a volume. At least my recollection, it's not a  
12 volume based. It was on a per unit.

13 So, let's on your scenario, 9 and 10,  
14 let's say that there was a 10 cent rebate and they  
15 had five units that they purchased in the month,  
16 they would get 50 cents.

17 Q. And were there rebate -- withdraw that.

18 Were there differences in the magnitude  
19 of the rebate dependent on the number of sales made  
20 to that wholesaler?

21 MR. DIAMANTATOS: Objection; form.

22 BY THE WITNESS:

23 A. To my knowledge, no.

24 BY MR. MELAMED:

1 Q. Were there differences in the magnitude  
2 of the rebate based on the percentage of Actavis'  
3 product as a whole of all AB -- similarly AB-rated  
4 products by that wholesaler?

5 MR. DIAMANTATOS: Objection; form, foundation.

6 BY THE WITNESS:

7 A. Can you say it one --

8 BY MR. MELAMED:

9 Q. Sure.

10 A. I hate -- it's a long one. I'm sorry.  
11 I just want to make sure I'm answering correctly.

12 Q. So, Actavis sold generic oxycodone,  
13 correct?

14 A. Okay.

15 Q. And it sold it at 15 milligram strength,  
16 correct?

17 A. Okay. Yes.

18 Q. It did, right?

19 A. Yes.

20 Q. Just want to use a concrete. Even  
21 though these numbers won't be concrete. I want to  
22 use a drug that's concrete.

23 Let's say it sold oxycodone to  
24 AmerisourceBergen.



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1 A. Okay.

2 Q. If it had a rebate contract set up with  
3 AmerisourceBergen, would the amount of the rebate  
4 differ based on whether AmerisourceBergen's whole  
5 purchase of all oxycodone generic 15 milligrams  
6 included 50% market share for Actavis' version  
7 versus 10% market share of Actavis' version?

8 A. Okay.

9 MR. DIAMANTATOS: Objection; form, foundation.  
10 Go ahead.

11 BY THE WITNESS:

12 A. Yeah, so to the best of my knowledge,  
13 no, it's not NDC-specific. So, it would be the  
14 whole portfolio of FDA-approved products that  
15 Actavis had.

16 And, for instance, on your example,  
17 let's just stay with the example of it being  
18 AmerisourceBergen, say, ah, you know what, we would  
19 like a 2 -- don't give it to us in price. We'll  
20 take it in a rebate, a 2% rebate. Whether they --  
21 whatever our whole portfolio, whether they buy one  
22 unit or 10,000 units of all of our products within  
23 a certain period, it's 2%.

24 BY MR. MELAMED:

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1 Q. I'm going to hand you what's been marked  
2 Exhibit 5.

3 (WHEREUPON, a certain document was  
4 marked as Allergan-Dorsey Exhibit  
5 No. 5: 4/27/11 e-mail string with  
6 attachments;  
7 Acquired\_Actavis\_00485597 -  
8 00485602.)

9 BY MR. MELAMED:

10 Q. Exhibit 5 is e-mail string and  
11 attachment thereto. The e-mail most recent in time  
12 is from Bob Miranda to Kristen Reabe cc'ing Michael  
13 doors and Shateda Davidson dated April 27, 2011,  
14 and that starts at Acquired\_Actavis\_00485597,  
15 continues through 599 and then an attachment  
16 thereto which is all the same Bates number, which  
17 is Acquired\_Actavis\_00485602. It's a voluminous  
18 single Bates numbered document.

19 I just want you to turn to the  
20 second-to-last page of the entire document, and  
21 it's -- you see there is a Pharmacy Select logo and  
22 then a highlighted chart?

23 A. I'm sorry. Is it 5602?

24 Q. They're all -- unfortunately they're all

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1 5602, all these, because it's one large Excel  
2 spreadsheet.

3 A. Oh.

4 Q. But if you look at the screen, it has  
5 the correct page. I just want to make sure you  
6 have that page in front of you.

7 A. Yep.

8 Q. Okay. So, first of all, what do you  
9 understand the purpose of this document to be? Do  
10 you have any understanding of what the purpose of  
11 this long spreadsheet is? You can return to the  
12 e-mail if you need to and then we can return to  
13 that page.

14 A. Okay.

15 Q. So, now that you have had a chance to  
16 review the e-mail, do you understand this to be in  
17 reference to a disputed rebate to be provided by  
18 Actavis to Pharmacy Select based on purchases?

19 A. That's what it appears to be, yes.

20 Q. And I just want to understand, do you  
21 understand, returning to the page we were on, which  
22 is reflected on the screen, which has -- it's the  
23 second-to-last page of 602, it -- there is an  
24 Actavis market share calculation.

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1 Do you see that in the gray box in the  
2 middle?

3 A. Yes.

4 Q. So, there is a total unit and then an  
5 Actavis unit and then from that, they have derived  
6 a 19.82% market share.

7 Do you see that?

8 A. Yep.

9 Q. Okay. And do you see that that -- the  
10 rebate or the indication is that the rebate to be  
11 paid to Pharmacy Select depends on their market  
12 share of Actavis units. Does that appear to be  
13 accurate?

14 MR. ROTH: Object to form, lacks foundation,  
15 calls for speculation.

16 BY THE WITNESS:

17 A. I'd have to see the cells but --  
18 roughly, it's 20%. So roughly, yeah, yeah, yeah.  
19 So, roughly, based upon that grayed-in cell, the 39  
20 and change is about 20% of the 19, 19.8, yes.

21 BY MR. MELAMED:

22 Q. Right. And, so, if what Pharmacy Select  
23 is saying in this document is if they purchase  
24 between 10% -- I'm sorry.



1 If their market share of Actavis units  
2 as a percentage of total units is between 10% and  
3 19.9%, they get a 1% rebate. Is that your  
4 understanding?

5 A. As it's laid out here, yes.

6 Q. And if they -- and then there are  
7 different tiers of market share to rebate. So, the  
8 next tier would be if it was the market share was  
9 20% to 29.9% Actavis units as a percentage of total  
10 units, then the rebate to be 2%. Do you see that?

11 A. Yes.

12 Q. Okay. Do you recall whether any other  
13 customers who you worked with had tiered rebates,  
14 whether or not the tiers were the same or the  
15 percentages were the same, whereby the amount of  
16 their rebate increased with their market share of  
17 Actavis?

18 A. Their market share, not that I'm aware  
19 of, no.

20 Q. Do you recall this particular contract,  
21 rebate contract?

22 A. I'm -- no. I'm -- 2011. Yeah, I -- I  
23 guess I don't recall us having -- having this type  
24 of structured contract in place, this GPO.

1 Q. You called them a GPO, correct?

2 A. Yes.

3 Q. What is a GPO?

4 A. At least how it's defined within our  
5 realm is the group purchase organization.

6 Q. And what is a group purchase  
7 organization?

8 A. They purchase or they -- well, they're  
9 like a -- not really a purchasing agent. They are  
10 the contract negotiator for -- for this specific  
11 one would be for independent pharmacies.

12 So, they would negotiate with the  
13 manufacturers with a contract price that the  
14 individual pharmacies could buy through the  
15 wholesaler.

16 BY MR. MELAMED:

17 Q. You can put that aside.

18 A. Okay.

19 Q. I'm handing you a document that's been  
20 marked Exhibit 6.

21 (WHEREUPON, a certain document was  
22 marked as Allergan-Dorsey Exhibit  
23 No. 6: 10/17/11 e-mail string;  
24 Acquired\_Actavis\_00486766 -

1 00486770.)

2 BY MR. MELAMED:

3 Q. Exhibit 6 is an e-mail string starting  
4 at Acquired\_Actavis\_00486766 and continuing through  
5 770, the most recent-in-time being from Michael  
6 Dorsey to Soojung Chung and Ara Aprahamian?

7 A. Aprahamian.

8 Q. Aprahamian. Thank you. Dated  
9 October 17, 2011.

10 I have a specific question about this;  
11 but before I get to that, do you recall this e-mail  
12 exchange?

13 A. No. It's a while, a while back. Can  
14 I -- would it make sense for me to read it through  
15 before you question or no?

16 Q. You may read it. I have a detailed  
17 question.

18 A. Okay.

19 Q. Why don't you I ask the question. If  
20 you need to read through it --

21 A. Gotcha.

22 Q. -- then feel free to.

23 In the last -- in your first e-mail in  
24 time, the last sentence. So, I'm sorry, on the

1 first page, 766.

2 A. Sorry.

3 Q. The last sentence is addressed or last  
4 paragraph is addressed to Ara. Do you see that?

5 A. Yes.

6 Q. And it says, "Ara, please explain the  
7 difference between 867 and chargeback information."  
8 And then the parentheses say, "Both provide DEA  
9 number, store name, address, et cetera."

10 Do you recall whether Ara responded to  
11 you regarding the difference between 867 and  
12 chargeback information?

13 A. I don't recall if he did or not.

14 Q. Did you ever come to have an  
15 understanding independent of this e-mail of the  
16 difference between an 867 and chargeback  
17 information?

18 A. Technically, no, because I'm not in  
19 either of the -- of the -- as far as that  
20 department. So, I'm not an expert on this is what  
21 differentiates 67 versus chargeback.

22 Q. And by "that department" do you mean the  
23 pricing department?

24 A. I don't know if it would be pricing or

1 chargeback. But one of those two, if I had to take  
2 a stab.

3 Q. In the parentheses you say both the 867  
4 and chargeback information, provide the DEA number,  
5 store name, address, et cetera.

6 Do you see that?

7 A. Yes.

8 Q. And is that on a -- on what -- on a  
9 unit-by-unit basis? On what basis -- so, the  
10 chargeback information is presented.

11 A. Okay.

12 Q. On what -- and it's for all of X  
13 customers purchases for a period of time. What  
14 level of detail does that information go to, the  
15 DEA number, store name, address? Is it on a --  
16 that information for their purchase of each drug  
17 from Actavis?

18 A. Okay. So, by -- by SKU each time, is  
19 that what you're asking?

20 Q. Explain and then I'll -- if I need  
21 clarification, I'll continue on.

22 A. Okay. Again, it's not -- I've -- don't  
23 work as far as with the reports. But anecdotally,  
24 my understanding is that it's -- each and every

1 chargeback has a -- is a separate line that will  
2 have that information and will provide that  
3 information to the manufacturer.

4 Q. You may have mentioned this before. I'm  
5 sorry that I don't remember if you did.

6 Who did work with the chargeback reports  
7 at Actavis? And you can go over time like 2007  
8 moving forward.

9 A. I -- I don't know the exact departments.  
10 If it was a function of -- I don't know if it came  
11 out of -- I know -- I think customer service had  
12 access to it. I just don't know who I guess or  
13 which department was responsible for coming up with  
14 the chargebacks and processing, if there is any  
15 issues that -- I guess I don't recall like who the,  
16 what department that it was.

17 Q. What is an -- what is an 867?

18 MR. ROTH: Objection to form, calls for  
19 speculation, lacks foundation.

20 BY THE WITNESS:

21 A. My very limited understanding of what it  
22 is, it's an EDI.

23 BY MR. MELAMED:

24 Q. What is an EDI?

1 A. I know these acronyms. I'm not quite  
2 sure if I know the definition. Let's go with  
3 electronic, but then something maybe information.  
4 Electronic digital. I don't know.

5 So, it's just a designator that my  
6 understanding is that the 867 is the sales out.

7 Q. Got it. So, 867 reflects sales out of  
8 Actavis products to customers on a DEA number,  
9 store name, address, et cetera basis. Is that your  
10 understanding?

11 A. I don't know if I got clarification.  
12 That's my thought at that particular time, but I  
13 don't know.

14 Q. Do you know whether there is an 867  
15 report generated for each purchase of Actavis,  
16 each -- I'm sorry -- each sale of Actavis products  
17 going back to when you started at Actavis in 2007?

18 A. I believe the 867s come -- gosh. I  
19 don't know. It's coming from I believe the  
20 wholesaler segment. I just don't know the details  
21 of it.

22 Q. Is it your understanding that the 867  
23 reports are something that Actavis itself  
24 generated?

1 A. My understanding is that that's  
2 customer.

3 Q. That --

4 A. Customer generates those and sends those  
5 to the manufacturer.

6 Q. And the customer -- your understanding  
7 is that the customers who did that were the  
8 wholesalers?

9 A. Wholesalers. However, I'm not saying  
10 that's limited just to wholesalers.

11 Q. I have also seen reference in other  
12 documents to 852 reports. Do you know what those  
13 references, do you know what an 852 report is?

14 A. That's probably the only other one I  
15 know. I think I know. And that's I believe would  
16 be whole -- your actual inventory levels that are  
17 in a wholesaler, that are in that distribution  
18 center.

19 Q. So, differentiated from the 867 in that  
20 the 867 are the -- the -- reflect the sales out to  
21 the wholesaler and the 852 represents the  
22 cumulative total of their inventory from Actavis,  
23 is that accurate?

24 A. I think -- I may have misheard you. So

1 just point of clarification.  
2 867 comes from the customer, i.e., an  
3 example would be a wholesaler to the manufacturer,  
4 and then the 852 is my understanding then is the  
5 tool -- in essence it's the broadcast of  
6 information from, again, from the customer to the  
7 manufacturer saying this is what I have in my  
8 inventory.  
9 Q. And the 852 reflects Actavis' inventory,  
10 Actavis' 852 reflects Actavis' inventory?  
11 A. I only receive -- our company -- each  
12 manufacturer, to my knowledge, only receives their  
13 inventory within that entity that's sending it.  
14 Q. So, the 852, I just want to make sure I  
15 understand, reflects Actavis' -- let's say a  
16 wholesaler --  
17 A. Yep.  
18 Q. -- has sent Actavis, generated an 852  
19 and transmitted it to Actavis.  
20 A. Yeah.  
21 Q. Is that the kind of scenario which the  
22 report would be --  
23 A. Would flow through, yes.  
24 Q. And for the 852, that wholesaler would

1 tell Actavis how much of Actavis' products it has,  
2 it being the wholesaler, has on its -- in its  
3 warehouse?  
4 A. Yes.  
5 Q. Okay. And the 867 would be generated by  
6 a customer, a wholesaler.  
7 A. Um-hmm.  
8 Q. And it would say -- it would reflect the  
9 actual purchases of Actavis' products by that  
10 wholesaler, is that correct?  
11 A. No. So, you're close up to that point.  
12 So, 867 reflect -- again, that report is  
13 coming from a wholesaler to the manufacturer and it  
14 is stating their sales out to their customers.  
15 Q. Got it. So, 852, from manufacturer to  
16 the -- I'm sorry. Let me restate that. Just want  
17 to make sure I understand this and have it clear.  
18 A. Okay.  
19 Q. 852 is a report generated by a  
20 wholesaler customer sent to a manufacturer like  
21 Actavis and it reflects how many of Actavis'  
22 products the wholesaler has in its inventory at  
23 that time?  
24 A. Yes.

1 Q. And the 867 comes from a customer, in  
2 all cases a wholesaler?  
3 A. I never like to say all, but this  
4 example.  
5 Q. You understand 867s to have been  
6 provided by wholesalers to Actavis and the 867 that  
7 Actavis received from a wholesaler would reflect  
8 the sales of Actavis products from the wholesaler  
9 to entities that purchased Actavis products from  
10 the wholesaler?  
11 A. Yes.  
12 Q. So, is it accurate to say based on the  
13 852 data that Actavis could tell where wholesalers  
14 were shipping Actavis' products?  
15 MR. DIAMANTATOS: Objection.  
16 MR. ROTH: Objection; lacks foundation, calls  
17 for speculation and form.  
18 BY THE WITNESS:  
19 A. So, can you ask one more time.  
20 BY MR. MELAMED:  
21 Q. My understanding was the -- I think what  
22 you just testified.  
23 A. Okay.  
24 Q. You confirm is my understanding of the

1 852s which are that they reflected the -- I'm  
2 sorry. I'm saying the wrong form.  
3 A. That's what got me twisted.  
4 Q. 867.  
5 A. Okay.  
6 Q. Is it accurate that based on the 867  
7 reports that Actavis knew where wholesalers were  
8 shipping Actavis' drugs that wholesalers had bought  
9 from Actavis?  
10 MR. DIAMANTATOS: Objection; form, foundation,  
11 calls for speculation.  
12 MR. ROTH: Same objections.  
13 BY THE WITNESS:  
14 A. All I -- like I said, I think with the  
15 867, what I was calling into question is that it's  
16 a sales out report and then what -- what's in that  
17 exactly, what's in that report, I've -- I don't  
18 know. I've not seen.  
19 MR. MELAMED: Why don't we go off the record.  
20 THE VIDEOGRAPHER: We are off the record at  
21 12:17 p.m.  
22 (WHEREUPON, a recess was had  
23 from 12:17 to 1:05 p.m.)  
24 THE VIDEOGRAPHER: We are back on the record

1 at 1:05 p.m.  
 2 MR. MELAMED: Welcome back. I think there was  
 3 somebody on the phone who wanted to make an  
 4 objection.  
 5 MR. SCHOCK: Yes. Thank you. This is Andrew  
 6 Schock. I just wanted to note a form objection to  
 7 earlier questions regarding meetings with  
 8 AmerisourceBergen and I think there was some  
 9 follow-up regarding the customer relationship  
 10 there.  
 11 MR. MELAMED: You wanted to note an objection  
 12 to a question an hour or so ago?  
 13 MR. SCHOCK: Yes. I apologize. I'm on the  
 14 phone. I didn't get to the mute button and didn't  
 15 want to interrupt the subsequent testimony. I'm  
 16 just putting a form objection on the record.  
 17 BY MR. MELAMED:  
 18 Q. Welcome back.  
 19 A. You too.  
 20 Q. What, if any, training did you receive  
 21 regarding responsibility to prevent diversion and  
 22 monitor and support suspicious orders of Actavis  
 23 opioids?  
 24 MR. DIAMANTATOS: Objection; form, timing.

1 2007 and approximately the end of 2012?  
 2 A. The majority of the time, so, pre- -- or  
 3 '13 minus, I don't know like when she came on  
 4 board. Would have been -- she headed up our  
 5 customer service was Nancy Baran.  
 6 Q. And who was the person in charge of  
 7 monitoring and reporting suspicious orders once the  
 8 Watson acquisition was complete?  
 9 A. It may have -- I was learning the ropes  
 10 as far as which department. So, it may have still  
 11 carried over with Nancy as she onboarded at Watson.  
 12 And, again, there could have been other -- other  
 13 departments or other personnel helping in that.  
 14 Q. Are you aware of anyone at Actavis at  
 15 any time, from 2007 to present, who was ever  
 16 praised for reporting suspicious order?  
 17 MR. DIAMANTATOS: Objection; vague.  
 18 BY THE WITNESS:  
 19 A. To the best of my recollection, I don't  
 20 know if they were or weren't.  
 21 BY MR. MELAMED:  
 22 Q. I'm sorry.  
 23 A. To the best of my recollection, I'm not  
 24 sure if they was identified. At least come to my

1 BY THE WITNESS:  
 2 A. Again, as far as any reporting and  
 3 identifying, I was not. Really it was outside of  
 4 my spectrum. So, I really didn't have that  
 5 training because it was outside of what I was hired  
 6 for.  
 7 BY MR. MELAMED:  
 8 Q. Okay. So, and your counsel interposed  
 9 an objection as to timing. I just want to  
 10 understand.  
 11 A. Okay.  
 12 Q. Is that answer the same, consistent from  
 13 2007 to present?  
 14 A. That would -- yes.  
 15 Q. Whose responsibility was it to monitor  
 16 and report suspicious orders at Actavis prior to  
 17 Watson's acquisition?  
 18 A. I'm not 100 percent. It could have been  
 19 a combination between the customer service. It may  
 20 have had an assistant. I don't know if we -- there  
 21 was another department linked it. But I believe  
 22 customer service was an active participant in it.  
 23 Q. And who was -- do you recall who was in  
 24 charge of the customer service department between

1 knowledge, brought to my attention and remember,  
 2 I -- I don't. It's not coming to mind right now.  
 3 Q. Okay. If you could just speak up a  
 4 little bit.  
 5 A. Okay. I apologize.  
 6 Q. The HVAC system right behind us is  
 7 blowing.  
 8 A. Okay. I apologize.  
 9 Q. It's no problem.  
 10 Do you know if anybody at Actavis from  
 11 2007 to present was ever disciplined because of a  
 12 failure to report suspicious orders?  
 13 MR. DIAMANTATOS: Objection; form, foundation,  
 14 vague.  
 15 BY THE WITNESS:  
 16 A. Again, it was outside of my -- really  
 17 wasn't a department that I had a lot of inter -- it  
 18 was a need-to-know as far as interactions. I don't  
 19 know if there was or wasn't.  
 20 BY MR. MELAMED:  
 21 Q. What do you mean by "it was a  
 22 need-to-know as far as interactions"?  
 23 A. Meaning if it occurred and it was my  
 24 account and I needed to have that conversation with

1 the account as to, "Hey, look, we're cutting these  
2 orders" or "These orders are on hold," then that's  
3 I guess is what I was saying about I need to know.

4 Q. And I think you answered this before.  
5 But as best you recall, none of your accounts ever  
6 had a suspicious order held that wasn't resolved by  
7 the information they provided you about the reason  
8 for that order, is that correct?

9 MR. DIAMANTATOS: Objection; asked and  
10 answered, mischaracterizes prior testimony.

11 BY THE WITNESS:

12 A. Best of my knowledge, it gets resolved  
13 one way or the other.

14 BY MR. MELAMED:

15 Q. What do you mean "one way or the other"?

16 A. Either the information is sufficient or  
17 the information isn't sufficient and orders are  
18 cut.

19 Q. Do you -- to the best of your  
20 recollection, did you ever have -- are you aware of  
21 any situation where one of your customers provided  
22 information that wasn't sufficient to ship the  
23 order?

24 A. I don't recall anything specific at

1 this -- at this time.

2 Q. You said from sometime after 2007 to  
3 2013 at least Nancy Baran was the person you  
4 believed in charge of the customer service  
5 department who was primarily responsible for  
6 suspicious orders, is that right?

7 A. She was a head of the customer service  
8 team and I think she had an active or she had a  
9 role in the suspicious ordering, but I -- again, I  
10 don't know in what facet that she was engaged.

11 Q. Do you recall approximately how many  
12 employees, during that time period when Nancy Baran  
13 was involved in suspicious order monitoring, do you  
14 recall how many employees were involved in  
15 implementing the systems used to prevent diversion  
16 of Actavis opioids?

17 A. No.

18 MR. DIAMANTATOS: Objection; foundation. I'm  
19 sorry. Go ahead.

20 BY THE WITNESS:

21 A. No, I do not.

22 BY MR. MELAMED:

23 Q. Or do you know, same period of time, do  
24 you know how many employees were involved in

1 implementing systems to monitor and report  
2 suspicious activity relating to Actavis, sale of  
3 Actavis drugs?

4 MR. DIAMANTATOS: Objection; foundation.

5 BY THE WITNESS:

6 A. Again, since it was outside of my realm,  
7 I really don't -- I couldn't answer that question.  
8 Sorry.

9 BY MR. MELAMED:

10 Q. Handing you what's been marked as  
11 Exhibit 7.

12 (WHEREUPON, a certain document was  
13 marked as Allergan-Dorsey Exhibit  
14 No. 7: 3/11/11 e-mail string with  
15 attachment; ALLERGAN\_MDL\_01698571 -  
16 01698574.)

17 BY MR. MELAMED:

18 Q. Which is an e-mail string, brief e-mail  
19 string and attachment thereto. E-mail most recent  
20 in time is from Jinping McCormick sent March 11,  
21 2011 to Michael Perfetto, cc'ing Rachelle Galant  
22 and Nancy Baran, and the e-mail string runs from  
23 ALLERGAN\_MDL\_01698571 to 72 and then attached  
24 thereto is 8573 and 8574.

1 So, if you look at the e-mail second in  
2 time, which is at the bottom of the first page from  
3 Rachelle Galant on February 15, 2011?

4 A. Okay.

5 Q. You see you are a recipient. You're  
6 listed as a recipient of this e-mail, correct?

7 A. Yes, on this document you provided, yes.

8 Q. Do you recall receiving this e-mail?

9 A. No. I mean, it doesn't stick in my  
10 mind.

11 Q. Do you have any reason to doubt that you  
12 received it?

13 MR. DIAMANTATOS: Objection; form.

14 BY THE WITNESS:

15 A. I guess my comment is that from eight  
16 years ago, it was -- based per this document that  
17 was supplied, my name is on it. Okay.

18 BY MR. MELAMED:

19 Q. Is it your assumption that because your  
20 name was on it, it was sent to you?

21 MR. DIAMANTATOS: Objection; form.

22 BY THE WITNESS:

23 A. I don't know if it was sent to me and  
24 received by me. I'm saying per this document my



1 name appears to be on -- on copy or on from a  
 2 string of people. So, yes, my name appears to --  
 3 appears to have been sent to me.  
 4 BY MR. MELAMED:  
 5 Q. Okay. And you see Ms. Galant writes,  
 6 "Please see attached for a new SOP that has been  
 7 created for the team - dealing with oxycodone IR  
 8 suspicious orders."  
 9 Do you see that?  
 10 A. Yes.  
 11 Q. Do you recall whether there was a prior  
 12 SOP dealing with oxycodone IR suspicious orders?  
 13 A. I do not know what was -- what was in  
 14 place before -- before this e-mail.  
 15 Q. And SOP is standard operating  
 16 procedures?  
 17 A. The general term of that, so, yes, I  
 18 would -- I would go with that.  
 19 Q. Do you know whether there was another  
 20 standard operating procedure for suspicious orders  
 21 of any other controlled substances sold by Actavis  
 22 as of February 2011?  
 23 MR. DIAMANTATOS: Objection; form.  
 24 BY THE WITNESS:

1 what -- and same with the SOP, I just don't have  
 2 the exact knowledge as to, you know, when and what  
 3 version.  
 4 BY MR. MELAMED:  
 5 Q. You mentioned something, you mentioned a  
 6 phrase in your answer, non-controls?  
 7 A. Yes.  
 8 Q. Can you explain what that means?  
 9 A. Items that are not under the schedules  
 10 that the FDA or DEA comes out with. So, II through  
 11 V or I guess it would be I through V technically.  
 12 So, anything that's not within that.  
 13 Q. Okay. So, just to be clear, your answer  
 14 is that you don't recall at this point, as of  
 15 February 15, 2011, whether there existed SOPs for  
 16 suspicious orders of any Actavis products, is that  
 17 right?  
 18 MR. ROTH: Mischaracterizes testimony, lacks  
 19 foundation, calls for speculation, form.  
 20 BY THE WITNESS:  
 21 A. I think what I was trying to say before  
 22 is I -- at this juncture, I don't know, I don't  
 23 recall what was in place, when it was in place, and  
 24 to what degree, how everything was divided.

1 A. So, I'm sorry. Can you just -- there  
 2 was a lot of information. Can you just -- I just  
 3 want to make sure.  
 4 BY MR. MELAMED:  
 5 Q. So, I asked earlier whether you recall  
 6 whether there was a prior SOP concerning oxycodone  
 7 IR before the one that's attached here.  
 8 A. Okay.  
 9 Q. And now I'm asking as a general matter.  
 10 A. Yeah.  
 11 Q. Do you know if there was an SOP  
 12 concerning suspicious orders of any other drugs  
 13 sold by Actavis?  
 14 MR. DIAMANTATOS: Objection; form.  
 15 MR. ROTH: Lacks foundation, calls for  
 16 speculation.  
 17 BY THE WITNESS:  
 18 A. The -- I don't know if and when -- to be  
 19 100 percent sure, I don't know like when certain  
 20 things were put into place, for instance, non- --  
 21 non-controls. There is limitations that are  
 22 tracking mechanisms. You find out they are  
 23 overbuying, you want to know why.  
 24 When that started, to what degree,

1 Unfortunately, with me not being in  
 2 that -- in that area on a day-to-day basis, I  
 3 just -- I don't have that history.  
 4 BY MR. MELAMED:  
 5 Q. Let's turn to the attachment, starting  
 6 on 8573, and this is what Ms. McCormick on Friday,  
 7 March 11, recirculates to Michael Perfetto,  
 8 Rachelle Galant and Nancy Baran saying we need to  
 9 nail this down.  
 10 And if you look at the title of 8537, it  
 11 says, "Suspicious Order Report for Oxycodone IR  
 12 Tablets, Standard Operating Procedure, Commercial."  
 13 And then it lists "Actions" and "Responsibilities."  
 14 Do you see that chart?  
 15 A. Yes, I do.  
 16 Q. So, did you review this standard  
 17 operating procedure for -- the draft standard  
 18 operating procedure for suspicious order report for  
 19 oxycodone IR?  
 20 A. Well, it's from eight years ago. So I  
 21 don't have 100 percent certainty, but I would have  
 22 thought that I would have.  
 23 Q. Do you see where it's, on  
 24 "Responsibility" on the right-hand side, it lists



<p style="text-align: right;">Page 177</p> <p>1 the position --</p> <p>2 A. Yes.</p> <p>3 Q. -- who is responsible for a series of</p> <p>4 steps?</p> <p>5 A. Yes.</p> <p>6 Q. Would you have been in any of those</p> <p>7 positions at this time?</p> <p>8 A. I would have been on '11 so it would</p> <p>9 have been within the sales field.</p> <p>10 Q. So, on line Item No. 2 where it says</p> <p>11 "Customer Inquiry" and the responsibility is "Sales</p> <p>12 Team," is it your understanding that you would have</p> <p>13 responsibility to contact each of your customers</p> <p>14 who is on the monthly suspicious order tracking</p> <p>15 form, either by e-mail, in person or phone,</p> <p>16 regarding the higher volume orders?</p> <p>17 A. My understanding, yeah, based upon this</p> <p>18 document that that would have been a direction</p> <p>19 given to me. Yes.</p> <p>20 Q. And then further your responsibility was</p> <p>21 to note the reasons for the order volume and</p> <p>22 duration that the orders will be increased, right?</p> <p>23 A. That would be provided by the customer,</p> <p>24 yes.</p>	<p style="text-align: right;">Page 178</p> <p>1 Q. And by your customers, it would be</p> <p>2 provided to you, is that right?</p> <p>3 A. Yeah, to me by, yes.</p> <p>4 Q. And then for line item 3, is it your</p> <p>5 understanding that subparts A, B and C in line item</p> <p>6 3 would also be your responsibility for your</p> <p>7 customers?</p> <p>8 MR. ROTH: Object to the form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. Yeah, it looks like 3 is really a subset</p> <p>11 of -- basically is the actionable items on 2. So,</p> <p>12 that would make sense, yes.</p> <p>13 BY MR. MELAMED:</p> <p>14 Q. Do you have any responsibility for</p> <p>15 item -- anything in items 1 or 4 as set forth in</p> <p>16 this chart?</p> <p>17 MR. DIAMANTATOS: Objection; form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. So, any -- any decisions on release/not</p> <p>20 release were out of my control.</p> <p>21 BY MR. MELAMED:</p> <p>22 Q. So, that's line item No. 4 and the</p> <p>23 subparts below it, correct?</p> <p>24 A. That's 4, yes. And then 1 was not --</p>
<p style="text-align: right;">Page 179</p> <p>1 don't recall as far as myself having to run any --</p> <p>2 having access to those reports to be run, to be</p> <p>3 ran. Excuse me.</p> <p>4 Q. Now, this, as I mentioned before, this</p> <p>5 was a draft standard operating procedure. If you</p> <p>6 notice there is a question mark in 4 subpart C, the</p> <p>7 last -- the very last part.</p> <p>8 It says, "Keep the open orders and any</p> <p>9 new orders that come in on the customer location</p> <p>10 and hold status until clearance from question marks</p> <p>11 to resume shipping the customer."</p> <p>12 Do you know whether this standard --</p> <p>13 something like this standard operating procedure</p> <p>14 was ever enacted at Actavis?</p> <p>15 MR. DIAMANTATOS: Objection; form, calls for</p> <p>16 speculation, foundation.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I'm not quite sure where they all landed</p> <p>19 compared to what's being drafted here on, you know,</p> <p>20 where they are landed on based upon what was being</p> <p>21 drafted.</p> <p>22 BY MR. MELAMED:</p> <p>23 Q. Do you ever recall reviewing a finalized</p> <p>24 standard operating procedure for suspicious order</p>	<p style="text-align: right;">Page 180</p> <p>1 report for oxycodone IR tablets --</p> <p>2 MR. DIAMANTATOS: Objection; form.</p> <p>3 BY MR. MELAMED:</p> <p>4 Q. -- in 2011.</p> <p>5 MR. DIAMANTATOS: I'm sorry. Objection; form,</p> <p>6 assumes facts, foundation.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Though there is many e-mails that I get</p> <p>9 and it's eight years ago, I'm not -- I guess it's</p> <p>10 not top of mind right now that I recall the actual</p> <p>11 final document.</p> <p>12 BY MR. MELAMED:</p> <p>13 Q. Handing you what's been marked</p> <p>14 Exhibit 8.</p> <p>15 (WHEREUPON, a certain document was</p> <p>16 marked as Allergan-Dorsey Exhibit</p> <p>17 No. 8: 2/18/11 e-mail string;</p> <p>18 Acquired_Actavis_01257892 -</p> <p>19 01257893.)</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. Exhibit 8 is an e-mail string most</p> <p>22 recent in time from Rachelle Galant to Michael</p> <p>23 Dorsey, February 18, 2011, subject, "Re: Draft</p> <p>24 SOP - suspicious orders Oxy IR tabs." Bates</p>

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1 No. starts at Acquired\_Actavis\_01257892 and runs to  
2 893.

3 And if you look at the last e-mail in  
4 time, you see it's the same e-mail we were just  
5 looking at from Rachelle Galant with the draft --

6 A. Okay.

7 Q. -- SOPs, correct?

8 Feel free to go ahead and look at that  
9 and confirm.

10 A. Okay. I've seen -- yes.

11 Q. So, you see that the first e-mail in  
12 time in Exhibit 8 is the same as the -- is the  
13 first e-mail in time in Exhibit 7. So, the bottom  
14 one of each, correct?

15 A. Yes.

16 Q. And then in Exhibit 8, the more recent  
17 one I handed you, going up -- so, going forward in  
18 time, so moving up from the bottom e-mail on the  
19 second page, you respond to Ms. Galant, and you  
20 said, "Looked good, maybe we want to weigh in on  
21 C-II buyers only."

22 C-II is referring to the DEA Schedule II  
23 drugs, correct?

24 A. Based on that, it would make sense, yes.

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1 Q. And you say, "Need to make sure they  
2 have" -- "the have policies," I assume that's a  
3 typo -- "they have policies and procedures in place  
4 to ensure their sales are all within guild lines."

5 A. Guidelines.

6 Q. For "guild lines," did you mean to type  
7 guidelines?

8 A. Yeah. Not my strongest suit.

9 Q. I have plenty of typos as well.

10 And then you see that Ms. Galant  
11 responds to you and you respond to her on  
12 February 18 and you say, "I was just wondering if  
13 we should be extra careful with accounts that just  
14 buy C-IIs, ie NuCare."

15 What did you mean by that?

16 A. I'm not right sure what I meant. I  
17 mean, you should be -- have the same amount of  
18 oversight and care whether they're -- they buy your  
19 whole portfolio or just C-IIs. So, I'm not quite  
20 sure what I was saying. Maybe -- I don't know.

21 I mean, when you stand back and look at  
22 it, same oversight no matter who it is. I don't  
23 know what I was, you know, trying to, you know,  
24 bring to -- bring to the attention or trying to

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1 really say here, because at the end of the day it  
2 should be the same no matter who the -- who the  
3 customer is.

4 Q. Okay. If you go up to Ms. Galant's  
5 response to you, the first-in-time -- I'm sorry --  
6 the last-in-time e-mail. She responds, "Gotcha -  
7 yes agreed. They seem sketchy."

8 Do you understand what she means by  
9 "sketchy"?

10 MR. DIAMANTATOS: Objection; foundation, calls  
11 for speculation. Go ahead.

12 BY THE WITNESS:

13 A. No. It's -- as it's coming from -- from  
14 Rachelle, I'm not actually sure what she is -- what  
15 she's meaning on it.

16 BY MR. MELAMED:

17 Q. Okay. Returning to your e-mail that she  
18 responded to you saying "They seem sketchy," you  
19 say, "I was just wondering if we should be extra  
20 careful with accounts that just buy C-IIs."

21 Did you have many customer accounts at  
22 this point in time, 2011, that just bought  
23 Schedule II drugs from Actavis?

24 A. Personally I don't think I -- I did.

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1 Like I said, I don't even recall who this NuCare,  
2 who they are or what they -- what they do. Unless  
3 if it's an account that's a -- what's a better word  
4 for end of life care? They have cancer and --  
5 it's --

6 Q. Like palliative care.

7 A. Yeah. So maybe that's -- I don't know.  
8 I don't know. Again, I can't recall their business  
9 model, what NuCare was.

10 But, again, I think what -- now you take  
11 things retrospective, it's more whether, no matter  
12 what the size they are, no matter who they are, the  
13 process should be the same. And I -- again, I  
14 don't -- I can't remember what I was trying to --

15 Q. So --

16 A. -- heighten here.

17 Q. Sorry to cut you off.

18 A. Oh, no worries.

19 Q. Am I understanding you correctly that --  
20 well, let me restate this.

21 Is there something more troubling to you  
22 as a national sales rep if you have a customer  
23 that's buying solely Schedule II drugs versus  
24 Schedule II drugs amongst other Actavis offerings?

1 A. I think that's -- that scenario, unless  
2 they are an end of life care facility, more  
3 often -- plenty more often than not, it's the --  
4 it's a blend of schedule/non-schedule products that  
5 the customers buy.

6 So, I would say it's a high rarity that  
7 if there is somebody that's all they buy, at least  
8 from my -- I can recall on our customers that we  
9 had.

10 Q. You can put that aside.

11 Handing you what's been marked  
12 Exhibit 9.

13 (WHEREUPON, a certain document was  
14 marked as Allergan-Dorsey Exhibit  
15 No. 9: 5/23/12 e-mail with  
16 attachment;  
17 Acquired\_Actavis\_01825237 -  
18 01825239.)

19 BY MR. MELAMED:

20 Q. Exhibit 9 is an e-mail string -- or an  
21 e-mail and two attachments from Rachelle Galant to  
22 Michael Dorsey, Kelly Smith, Nancy Baran sent  
23 May 23, 2012, subject "Miami pharmacy buying Oxy  
24 30 milligrams from ABC." Bates stamp of the e-mail

1 is Acquired\_Actavis\_01825237 and the attachments  
2 thereto are at 238 and 239.

3 Do you recognize this e-mail and the  
4 attachments thereto?

5 A. No.

6 Q. Do you have any reason to believe you  
7 didn't receive them --

8 MR. DIAMANTATOS: Objection.

9 BY MR. MELAMED:

10 Q. -- when they were sent?

11 MR. DIAMANTATOS: Objection; form.

12 BY THE WITNESS:

13 A. Based upon what's presented with my --  
14 in front of me, it has my name on the "To." So,  
15 you would -- you would think logically that it was  
16 sent to me.

17 BY MR. MELAMED:

18 Q. Right. So, the e-mail from Ms. Galant  
19 says, "Our SOM program monitoring the 867 data from  
20 our wholesalers has flagged a pharmacy out of Miami  
21 purchasing large quantities of Oxy 30 milligrams  
22 from ABC - 800 bottles in April and 900 bottles MTD  
23 in May."

24 I'll note this e-mail is from May 23.

1 So, I assume MTD means month to day. Do you agree  
2 with that?

3 A. That would be a safe, yes.

4 Q. She continues, "Besides the high volume,  
5 this pharmacy is buying 97% Oxy 30 milligrams."

6 And if you turn to the two exhibits, the  
7 two attachments, I'm sorry, at 238 and 239, the one  
8 at 238, if you look at towards the top right  
9 corner, reflects data from 5/01/2012 to 5/14/2012  
10 in which 900 of the 912 total units purchased were  
11 oxycodone.

12 Do you see that?

13 A. Yes.

14 Q. And then 9 -- 239, I'm sorry, the other  
15 attachment, is from April 1, 2012 to April 30,  
16 2012, and 800 of 809 total units purchased were  
17 oxycodone.

18 Do you see that?

19 A. Yes.

20 Q. So, going back to the e-mail. I just  
21 want to ask you some questions about what I read.

22 A. Yeah.

23 Q. It says, "Our SOM program monitoring the  
24 867 data from our wholesalers has flagged" this

1 information.

2 Do you see that?

3 A. Yes.

4 Q. And, so, this is the 867 data we  
5 discussed before, which is a report provided to  
6 Actavis by, in this case, AmerisourceBergen, is  
7 that right?

8 MR. ROTH: Objection; lacks foundation, calls  
9 for speculation.

10 MR. SCHOCK: Object to form.

11 BY THE WITNESS:

12 A. Based upon this e-mail, it is saying  
13 that the store bought it from AmerisourceBergen and  
14 867 data would come from -- come from the  
15 wholesaler in this instance.

16 BY MR. MELAMED:

17 Q. So, in this instance the 867 form would  
18 have come from AmerisourceBergen?

19 MR. DIAMANTATOS: Objection.

20 MR. SCHOCK: Object to form.

21 BY THE WITNESS:

22 A. I don't -- again, I don't have the --  
23 all I can go off is what's presented in front of  
24 me. I don't have the expertise. I wasn't witness

1 to it to see it.  
2 So, based upon what the sheet that's in  
3 front of me, what it's saying is that they're  
4 saying that the 867 was provided. This Miami  
5 pharmacy bought it from ABC so it would have  
6 came -- per this, it would have then came from ABC.  
7 Q. Okay. Did you ever bring this -- this  
8 circumstance to the DEA's attention?  
9 MR. ROTH: Object to form.  
10 BY THE WITNESS:  
11 A. I personally?  
12 BY MR. MELAMED:  
13 Q. Did you ever report that there was a  
14 pharmacy out of Miami purchasing large quantities  
15 of Oxy 30 milligrams, 800 bottles in April, 900 in  
16 May, that comprised 97% of their total purchases  
17 during that time period to the DEA?  
18 MR. DIAMANTATOS: Objection; form.  
19 MR. SCHOCK: Object to form.  
20 BY THE WITNESS:  
21 A. So, how are you defining "you"?  
22 BY MR. MELAMED:  
23 Q. You individually. Did you ever report  
24 this to the DEA?

1 DEA.  
2 BY MR. MELAMED:  
3 Q. If you ever came across a purchase that  
4 you believed needed to be reported to the DEA at  
5 Actavis, who would you have told?  
6 MR. DIAMANTATOS: Objection; form.  
7 MR. ROTH: Lacks foundation.  
8 BY THE WITNESS:  
9 A. I personally in essence -- it's not --  
10 it's not my eyes only. I'm for the most part  
11 second or third in line that would see it. So,  
12 it's more -- I may have not said this before.  
13 When it occurs, the system picks it up.  
14 There is a -- there's a -- and then I -- sometimes  
15 then I will get involved with the customer to have  
16 that conversation that, hey, something doesn't look  
17 right and then work through that customer to -- if  
18 they're in agreement, then we work together and the  
19 accounts get shut down. There is no more sales to  
20 them. Or there is additional information that's  
21 needed.  
22 BY MR. MELAMED:  
23 Q. Correct me if I'm wrong, but I think you  
24 testified before that you -- you did not have a

1 A. Not --  
2 MR. DIAMANTATOS: Same objection.  
3 BY THE WITNESS:  
4 A. That is something that generally is not  
5 in my as far as responsibilities and what I do on a  
6 day-to-day basis. Best of my knowledge, no.  
7 BY MR. MELAMED:  
8 Q. Is there anybody you see in the "From"  
9 or the "To" line or the "cc" line of this e-mail  
10 who it's your understanding would have had that  
11 responsibility to report this to the DEA?  
12 MR. ROTH: Objection; form, assumes facts not  
13 in evidence.  
14 BY THE WITNESS:  
15 A. When it comes to this, for instance,  
16 this scenario where, you know, the way I look at  
17 this is the systems were what they had in place  
18 caught this happening. Well, now, instead of  
19 letting it flow through, you know what, we need to  
20 investigate.  
21 So, what happens as far as any  
22 reporting, what I call behind, behind what I see, I  
23 don't know who on this e-mail or not on this e-mail  
24 is the person who would report that then to the

1 customer whose accounts were shut down or who the  
2 order was not shipped to because of any suspicious  
3 orders, report?  
4 MR. DIAMANTATOS: Objection; form,  
5 mischaracterizes witness' testimony, asked and  
6 answered.  
7 BY THE WITNESS:  
8 A. I would not say that that didn't happen.  
9 I mean, I --  
10 BY MR. MELAMED:  
11 Q. Let me state it a different way.  
12 You don't recall that ever happening as  
13 you sit here right now, is that correct?  
14 MR. DIAMANTATOS: Objection; form, asked and  
15 answered.  
16 BY THE WITNESS:  
17 A. So you're asking if I don't recall if we  
18 ever shut --  
19 BY MR. MELAMED:  
20 Q. Do you ever --  
21 A. -- stopped a shipment.  
22 Q. No. I'm sorry for interrupting you.  
23 Do you ever recall -- it's my  
24 understanding -- you just described what would

1 happen in a hypothetical scenario --  
 2 A. Yeah.  
 3 Q. -- where there can be accounts shut  
 4 down. I just -- I believe I remember you saying  
 5 before that for each order from your customers that  
 6 was held, to the best of your recollection, each of  
 7 your customers provided sufficient information for  
 8 you to ship those orders?  
 9 MR. DIAMANTATOS: Objection.  
 10 BY MR. MELAMED:  
 11 Q. Is that -- is that correct?  
 12 MR. DIAMANTATOS: I'm sorry. Objection; form,  
 13 asked and answered.  
 14 BY THE WITNESS:  
 15 A. No. If I'm hearing you correctly, you  
 16 felt that what I said is that each time they  
 17 submitted the -- the requested information that we  
 18 shipped?  
 19 BY MR. MELAMED:  
 20 Q. Yes.  
 21 A. I would not say that's a true statement.  
 22 Q. How many times do you believe sitting  
 23 here today, do you recall sitting here today, you  
 24 did not end up shipping the order that one of your

1 customers made --  
 2 MR. DIAMANTATOS: Objection; form.  
 3 BY MR. MELAMED:  
 4 Q. -- due to it being flagged as  
 5 suspicious?  
 6 MR. DIAMANTATOS: Sorry, counsel.  
 7 MR. MELAMED: Understood.  
 8 MR. DIAMANTATOS: Objection; form, asked and  
 9 answered.  
 10 BY THE WITNESS:  
 11 A. That I don't have the data in front of  
 12 me. I just --  
 13 BY MR. MELAMED:  
 14 Q. Can you identify within a range? Was it  
 15 10 times, 20 times, 1,000 times?  
 16 MR. DIAMANTATOS: Objection; form, asked and  
 17 answered.  
 18 BY THE WITNESS:  
 19 A. I think, I think it just skews the  
 20 answer. I don't know with any realm of percentage  
 21 or numbers through the course of time how many --  
 22 how many got flagged and stopped and canceled.  
 23 BY MR. MELAMED:  
 24 Q. So, if you continue on in the first

1 paragraph of the e-mail, the last sentence says,  
 2 "Based on the product mix purchased and the volume,  
 3 we need to bring this to ABC's attention to see if  
 4 it falls within ABC's guidelines of purchasing."  
 5 And then the last paragraph -- the last  
 6 paragraph says, "Mike P., Kelly, do you have any  
 7 guidance on how to approach ABC with this? Can we  
 8 forward the reports to the ABC buyer?"  
 9 Do you see that?  
 10 A. Yes.  
 11 MR. SCHOCK: Form.  
 12 BY MR. MELAMED:  
 13 Q. Do you know if this was ever brought to  
 14 AmerisourceBergen's attention?  
 15 MR. DIAMANTATOS: Objection; foundation.  
 16 MR. SCHOCK: Object to form.  
 17 BY THE WITNESS:  
 18 A. No, since I -- it was directed towards  
 19 it looks like Mike P and Kelly, I don't know what  
 20 the next steps were.  
 21 BY MR. MELAMED:  
 22 Q. Did you ever learn from Mike P or Kelly  
 23 whether ABC was approached with this?  
 24 MR. DIAMANTATOS: Objection; form, foundation.

1 MR. SCHOCK: Object to form.  
 2 BY THE WITNESS:  
 3 A. Best of my recollection, again, I don't  
 4 know what happened after the end of this -- this  
 5 e-mail conversation.  
 6 BY MR. MELAMED:  
 7 Q. AmerisourceBergen was your client at  
 8 this point in time, correct?  
 9 MR. SCHOCK: Object to form.  
 10 BY THE WITNESS:  
 11 A. Watson was '13. So, it would make sense  
 12 based upon this timeline that ABC,  
 13 AmerisourceBergen, was still an account that I  
 14 was -- that I was calling on.  
 15 BY MR. MELAMED:  
 16 Q. In the last question in the e-mail asked  
 17 of Mike P and Kelly says, "Can we forward the  
 18 reports to the ABC buyer," which I -- well, do you  
 19 know whether these reports were ever forwarded to  
 20 the ABC buyer?  
 21 MR. DIAMANTATOS: Objection; form, foundation.  
 22 MR. SCHOCK: Object to form.  
 23 BY THE WITNESS:  
 24 A. Based upon -- again, to my knowledge,

1 I'm unaware of what the next steps were after the  
 2 end of this e-mail.  
 3 BY MR. MELAMED:  
 4 Q. Handing you what's been marked  
 5 Exhibit 10.  
 6 (WHEREUPON, a certain document was  
 7 marked as Allergan-Dorsey Exhibit  
 8 No. 10: 3/18/11 e-mail string;  
 9 Acquired\_Actavis\_00237627 -  
 10 00237628.)  
 11 BY MR. MELAMED:  
 12 Q. Exhibit 10 is an e-mail string, most  
 13 recent in time from Michael Dorsey to Keith  
 14 Margolis, dated March 18, 2011, subject, "Re:  
 15 Oxycodone 15 milligram orders." The e-mail string  
 16 runs from Acquired\_Actavis\_00237627 to 628.  
 17 Do you recall this e-mail exchange?  
 18 A. I would not have before -- before seeing  
 19 it right in front of me.  
 20 Q. Okay. Do you have any reason to doubt  
 21 that you participated in the e-mail exchange?  
 22 MR. DIAMANTATOS: Objection; form.  
 23 BY THE WITNESS:  
 24 A. Again, I think it's -- goes without

1 Do you know how that order of 526  
 2 bottles based on where we currently were in that  
 3 month fell under Actavis' SOP of suspicious  
 4 ordering?  
 5 A. So -- I'm sorry. Do I know how that  
 6 order -- how it fell under the SOP?  
 7 Q. Yes. Can you explain why that order  
 8 fell under the SOP for suspicious ordering?  
 9 A. Well, again, I'm not -- I didn't develop  
 10 it. So, I don't know the metrics all involved.  
 11 One -- one could take a leap that you have an  
 12 average and if it's over -- over that average, then  
 13 it gets in essence kicked out and identified as,  
 14 all right, we need to -- need to have further  
 15 information on this as to why.  
 16 Q. And at this point in time, in the point  
 17 in time in the first e-mail where you're reaching  
 18 out to Keith, had you notified the DEA of this  
 19 order?  
 20 MR. DIAMANTATOS: Objection; form, assumes  
 21 facts.  
 22 BY THE WITNESS:  
 23 A. I personally -- I did not, no.  
 24 BY MR. MELAMED:

1 saying is that I don't, you know, recall something  
 2 from almost eight years, years ago specifically.  
 3 However, based upon what's been  
 4 presented in front of me and my name's on it, it  
 5 would -- it would appear that I was -- I was -- I  
 6 was part of this e-mail chain exchange.  
 7 BY MR. MELAMED:  
 8 Q. If you go to the last e-mail, so  
 9 first-in-time, which is on 628, you write Keith  
 10 Margolis and you say, "Bellco ordering" --  
 11 "Bellco's ordering on the 15 milligram Oxy IR tabs  
 12 is in excess of the rolling six-month average of  
 13 324."  
 14 Was Bellco one of your clients? I'm  
 15 sorry. One of your customers?  
 16 A. Bellco, I don't know the exact timeline,  
 17 but Bellco was purchased by AmerisourceBergen. So,  
 18 I don't know at that time if they were under that  
 19 umbrella or on their own. But I would have been  
 20 calling on them either way.  
 21 Q. Okay. And the e-mail continues to say,  
 22 "Month-to-date, Bellco has been shipped 526  
 23 bottles. Based on where we are in the month (52%),  
 24 this falls under our SOP of suspicious ordering."

1 Q. Do you know whether anybody at Actavis  
 2 at this point in time, March 17, 2011, had informed  
 3 the DEA about this order?  
 4 MR. DIAMANTATOS: Objection; form, foundation,  
 5 assumes facts.  
 6 MR. ROTH: Lacks foundation.  
 7 BY THE WITNESS:  
 8 A. When it comes to any interaction with  
 9 the DEA or the SOMS process, I was kind of second  
 10 or third step after the fact. So, I'm not privy to  
 11 if there was or there wasn't.  
 12 BY MR. MELAMED:  
 13 Q. You didn't learn either way whether  
 14 there was or wasn't any communication with the DEA  
 15 about it?  
 16 A. At this -- at this juncture, correct.  
 17 Q. And then the next e-mail, Mr. Margolis  
 18 responds and it appears he offers an explanation  
 19 for the increase in the order.  
 20 So, if you look at the sentence  
 21 approximately halfway through the paragraph, he  
 22 says, "As you can see, since the severest supply  
 23 issues originated in November-December, our overall  
 24 volume of the 50 Oxy" -- I'm sorry -- "of the 15



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<p>1 has increased as well."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And given the subject line and the</p> <p>5 content of this exchange, do you think "the 15"</p> <p>6 refers to oxycodone 15 milligrams?</p> <p>7 A. It would be a safe assumption that, yes,</p> <p>8 it is.</p> <p>9 Q. Did you make any inquiry of Mr. Margolis</p> <p>10 as to the reason for the increased overall volume</p> <p>11 of the oxycodone 15 milligram from Bellco?</p> <p>12 A. I'm sorry. Did I ask why?</p> <p>13 Q. Um-hmm.</p> <p>14 A. I -- I believe that's -- again, I'm --</p> <p>15 and I may not be understanding your question, so</p> <p>16 don't take this the wrong way. But I thought that</p> <p>17 was, I was addressing that in the initial e-mail,</p> <p>18 just asking him that our team noticed that it was</p> <p>19 higher than normal. Can you provide?</p> <p>20 Q. Right.</p> <p>21 A. Is that what you're --</p> <p>22 Q. So, you do that. You ask --</p> <p>23 A. Okay.</p> <p>24 Q. You say, hey, it's not higher -- higher</p>	<p>1 than normal. It's triggered our suspicious order</p> <p>2 system.</p> <p>3 A. Yeah.</p> <p>4 Q. And please explain. Mr. Margolis writes</p> <p>5 back and one of the things he says is, "Our overall</p> <p>6 volume of the 15 has increased as well."</p> <p>7 And I'm asking whether you did anything</p> <p>8 to determine why the overall order -- I'm sorry --</p> <p>9 the overall volume of the 15 had increased?</p> <p>10 MR. DIAMANTATOS: Objection; form, foundation,</p> <p>11 mischaracterizes the e-mail.</p> <p>12 BY THE WITNESS:</p> <p>13 A. No, as far as any other -- any other</p> <p>14 further investigation into it, myself personally,</p> <p>15 no.</p> <p>16 BY MR. MELAMED:</p> <p>17 Q. And it continues, Mr. Margolis</p> <p>18 continues, "That is a normal situation as customers</p> <p>19 will be ordering this from all of their suppliers</p> <p>20 to get whatever they can get."</p> <p>21 Did you follow up with Mr. Margolis to</p> <p>22 determine why customers would be ordering this from</p> <p>23 all of their suppliers to get whatever they could</p> <p>24 get?</p>
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<p>1 MR. DIAMANTATOS: Objection; form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. No, I did not -- not follow up with him,</p> <p>4 you know, asking why they're doing it. Just -- I</p> <p>5 guess you look at it, the previous, the previous</p> <p>6 sentence, and it's talking about there was</p> <p>7 shortages in November and December. So,</p> <p>8 potentially it's backfilling.</p> <p>9 Q. Did you reach out to any of the</p> <p>10 customers to which Mr. Margolis referred as</p> <p>11 ordering this from all of their suppliers to get</p> <p>12 whatever they can get to determine why they were</p> <p>13 ordering whatever they could get?</p> <p>14 MR. DIAMANTATOS: Objection; form, assumes</p> <p>15 facts.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I personally did not. I think that's</p> <p>18 not kind of within the realms of what I can -- of</p> <p>19 what I do. So, no, I did not.</p> <p>20 BY MR. MELAMED:</p> <p>21 Q. Do you know whether anybody at Actavis</p> <p>22 did so?</p> <p>23 MR. DIAMANTATOS: Objection; form, lacks</p> <p>24 foundation, assumes facts.</p>	<p>1 BY THE WITNESS:</p> <p>2 A. Best of my knowledge, I'm not sure if</p> <p>3 they did or didn't.</p> <p>4 BY MR. MELAMED:</p> <p>5 Q. Do you know whether there was any</p> <p>6 attempt made to understand whether the increase in</p> <p>7 overall volume of the Oxy 15 was due to orders by</p> <p>8 pill mills?</p> <p>9 MR. DIAMANTATOS: Objection; form, foundation,</p> <p>10 assumes facts.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Again, that -- that type of information</p> <p>13 and delving into it is outside of kind of what I --</p> <p>14 what I have the ability to do. So, no, I did not.</p> <p>15 BY MR. MELAMED:</p> <p>16 Q. Did you do anything to follow up to</p> <p>17 determine whether the overall -- the increase in</p> <p>18 overall volume of Oxy 15 was due to diversion of</p> <p>19 prescribed oxycodone to street sales?</p> <p>20 MR. DIAMANTATOS: Objection; form, foundation,</p> <p>21 assumes facts.</p> <p>22 BY THE WITNESS:</p> <p>23 A. Again, once again, I don't even know how</p> <p>24 you would go about doing that. Again, it's out of</p>

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1 my realm of any type of tracking.

2 BY MR. MELAMED:

3 Q. In response to Mr. Margolis you write,  
4 "Keith, thank you - this is perfect."

5 Do you know whether Actavis shipped  
6 this -- the order that had been flagged in excess  
7 of the rolling six-month average to Bellco based on  
8 his explanation?

9 MR. DIAMANTATOS: Objection; foundation.

10 BY THE WITNESS:

11 A. No. Outside of, you know, what's  
12 written here, I don't know what the -- what the  
13 next steps were.

14 BY MR. MELAMED:

15 Q. Who would know whether this order  
16 shipped?

17 MR. DIAMANTATOS: Objection; foundation, calls  
18 for speculation.

19 BY THE WITNESS:

20 A. I don't know if it's a who or it would  
21 be -- I mean, I think just like any -- any sales,  
22 it would be your customer service or a sales  
23 report. I have -- I don't know. But that's  
24 probably what I would think.

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1 A. Yes.

2 Q. With you and Mr. Schneider and  
3 Mr. Perfetto, correct?

4 A. Correct.

5 Q. Do you recall whether that meeting took  
6 place?

7 A. No, I do not know.

8 Q. And the e-mail first-in-time says,  
9 "Brian, we would like to also meet with you" --

10 A. Probably your.

11 Q. Thank you. Probably "your suspicious  
12 order monitoring team."

13 Do you see that?

14 A. Yes.

15 Q. Do you recall why you wanted to meet  
16 with Walgreens' suspicious order monitoring team at  
17 this time?

18 A. I don't, you know, recall the exact  
19 rationale or why it was brought up at the time.  
20 Again, it's part of the normal business meetings  
21 and maybe it was a function, maybe they're  
22 fine-tuning or if there was the team, I don't know  
23 if they had questions. I don't know.

24 But, again, there is always -- various

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1 BY MR. MELAMED:

2 Q. Handing you what's been marked as  
3 Exhibit 11.

4 (WHEREUPON, a certain document was  
5 marked as Allergan-Dorsey Exhibit  
6 No. 11: 11/11/11 e-mail string;  
7 ALLERGAN\_MDL\_02879204 - 02879205.)

8 BY MR. MELAMED:

9 Q. This is an e-mail exchange, yes, e-mail  
10 exchange most recent in time from Michael Dorsey to  
11 Brian Schneider at Walgreens dated November 11,  
12 2011. Bates range from ALLERGAN\_MDL\_02879204 to  
13 9205.

14 Do you recognize this e-mail exchange?

15 A. It's -- again, it's from almost seven  
16 and a half years ago. So, I don't recognize. It's  
17 not bringing anything to memory. But I see it was  
18 an exchange between myself and Brian from  
19 Walgreens.

20 Q. And it references an e-mail -- I'm  
21 sorry.

22 It references trying to put together a  
23 meeting on December 8, 2011.

24 Do you see that?

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1 subject matters that come up and sometimes they  
2 just want a draft notification of give them a  
3 heads-up who should be involved or who should be,  
4 you know, part of -- part of the meeting.

5 Q. Do you recall meetings with any of your  
6 customers regarding suspicious order monitoring?

7 A. The specifics, no. However, I know  
8 there was meetings that, you know, the subject came  
9 up and we -- we had those conversations.

10 Q. Do you recall approximately when that  
11 subject started coming up in your conversations  
12 with your customers?

13 A. No, I don't. Sorry.

14 Q. Handing you what's been marked  
15 Exhibit 12.

16 (WHEREUPON, a certain document was  
17 marked as Allergan-Dorsey Exhibit  
18 No. 12: 9/26/12 e-mail string;  
19 Acquired\_Actavis\_00096109 -  
20 00096110.)

21 BY MR. MELAMED:

22 Q. Exhibit 12 is an e-mail exchange most  
23 recent in time between Michael Dorsey and Nancy  
24 Baran dated September 26, 2012, re "SOM update,"

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1 running from Acquired\_Actavis\_00096109 to 110.  
 2 Do you recall this e-mail exchange?  
 3 A. No. It doesn't pop. It doesn't pop to  
 4 mind right now.  
 5 Q. But you have no reason to doubt that you  
 6 received and sent the e-mails where indicated on  
 7 this -- in this string?  
 8 MR. DIAMANTATOS: Objection; form.  
 9 BY THE WITNESS:  
 10 A. I think like in the past, it's --  
 11 it's -- I'm seeing the document presented to me.  
 12 I'm on the e-mail. So, it would make sense that it  
 13 was received by me.  
 14 BY MR. MELAMED:  
 15 Q. Okay. So I want to start with the  
 16 first-in-time e-mail from Nancy Baran to a list of  
 17 recipients including you on September 25, 2012.  
 18 Do you see that?  
 19 A. Yes.  
 20 Q. And the e-mail starts, "Sales team,  
 21 Apparently, the message was not clear on Friday's  
 22 call. SOM pertains to all controls, not just Oxy  
 23 or C-ILs."  
 24 Do you see that?

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1 A. Yes.  
 2 Q. Do you know when Actavis established  
 3 suspicious order monitoring protocols for all  
 4 controls?  
 5 MR. DIAMANTATOS: Objection; form, foundation,  
 6 asked and answered.  
 7 BY THE WITNESS:  
 8 A. No, I don't recall when --  
 9 BY MR. MELAMED:  
 10 Q. Do you know --  
 11 A. -- that was implemented.  
 12 Q. I'm sorry.  
 13 A. Sorry.  
 14 Q. That was my fault. I spoke over you.  
 15 Do you know what Ms. Baran meant by "all  
 16 controls"?  
 17 MR. DIAMANTATOS: Objection; form, foundation,  
 18 calls for speculation.  
 19 BY MR. MELAMED:  
 20 Q. Let me withdraw that and restate that.  
 21 Do you have an understanding of what  
 22 Ms. Baran meant by "all controls"?  
 23 MR. DIAMANTATOS: Same objection.  
 24 BY THE WITNESS:

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1 A. Again, I'm not quite sure due that she's  
 2 the author, but I think we kind of touched on this  
 3 before. All controls are for the most part in our  
 4 portfolio versus non-controls, so II through Vs.  
 5 BY MR. MELAMED:  
 6 Q. Okay. If you skip down to the last  
 7 paragraph on this page, 109, it's in the same  
 8 e-mail, it says, "We are halfway through our second  
 9 week with our enhanced SOM model."  
 10 Do you recall the nature of the  
 11 enhancement she refers to?  
 12 MR. DIAMANTATOS: Objection; form, foundation.  
 13 BY THE WITNESS:  
 14 A. No, I don't.  
 15 BY MR. MELAMED:  
 16 Q. It says, "To date, most communication  
 17 has been with Dorsey and his accounts. He has been  
 18 a great help."  
 19 Do you see that?  
 20 A. Yes.  
 21 Q. Do you recall communication between you  
 22 and your accounts regarding the enhanced SOM model?  
 23 MR. DIAMANTATOS: Objection; form, foundation,  
 24 assumes facts.

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1 BY THE WITNESS:  
 2 A. At this particular time, no, I don't.  
 3 BY MR. MELAMED:  
 4 Q. If you turn the page, the last paragraph  
 5 in this first e-mail in time says, "As always,  
 6 please let me know if you have any questions. Just  
 7 a reminder - the SOM team consists of Nancy,  
 8 Rachelle, Maria, Karen and Vicki Freeman. Please  
 9 communicate accordingly."  
 10 Do you know when the individuals there  
 11 designated as being part of the SOM team -- let me  
 12 withdraw that. It got poorly worded.  
 13 Do you know when Nancy, Rachelle,  
 14 Michelle -- I'm sorry -- Nancy, Rachelle, Maria,  
 15 Karen and Vicki Freeman became the SOM team?  
 16 MR. DIAMANTATOS: Objection; form, foundation,  
 17 assumes facts.  
 18 BY THE WITNESS:  
 19 A. No, I do not.  
 20 BY MR. MELAMED:  
 21 Q. Do you understand Nancy to be Nancy  
 22 Baran?  
 23 A. It would -- it would -- I don't know if  
 24 we had another one, but I would understand it to be

1 Nancy, yes, Baran.  
 2 Q. And do you --  
 3 A. Nancy Baran. Sorry.  
 4 Q. Again, I cut you off. I'm sorry.  
 5 Do you understand Rachelle to be  
 6 Rachelle Galant?  
 7 A. Yeah, must be. Yeah. It may be.  
 8 Q. Well, do you know any other -- we've --  
 9 A. I know.  
 10 Q. -- seen this name before spelled  
 11 R-a-c-h-e-l-l-e and called her Rachelle. Do you  
 12 know anybody else at Actavis who spelled their  
 13 first name --  
 14 A. It has to be --  
 15 MR. DIAMANTATOS: Let him finish the question.  
 16 THE WITNESS: Sorry.  
 17 BY MR. MELAMED:  
 18 Q. Sorry. Go ahead.  
 19 A. So, I'm sorry. Could you just ask the  
 20 question. I'm sorry.  
 21 Q. Do you know anybody else at Actavis who  
 22 spelled her name R-a-c-h-e-l-l-e?  
 23 A. Let's put it this way, I have -- I'm not  
 24 a good speller. So, when it be Michelle's two Ls,

1 resistance. Stay strong."  
 2 Do you recall what you meant by "meeting  
 3 resistance"?  
 4 A. I don't know. She's -- I always was  
 5 just kind of -- I liked her. I mean, it was good.  
 6 She was head of customer service. She was good at  
 7 what she did. So, sometimes if you innovate  
 8 things, you know, not specific to this e-mail, but,  
 9 you know, other items, if you're innovating, which  
 10 is change or modification.  
 11 So, I really don't know. I was just  
 12 probably just writing an encouraging thing probably  
 13 as a nice thing for her to give me a compliment I  
 14 guess at the bottom of this page.  
 15 So, I guess I was just complimenting her  
 16 for her job because she must be, I'm presuming,  
 17 spearheading this or one of the leads for it. So,  
 18 I'm just encouraging her back to say, "Hey, thanks  
 19 a lot. It's probably tough."  
 20 Q. Do you know from whom she was meeting  
 21 resistance?  
 22 MR. DIAMANTATOS: Objection; form, assumes  
 23 facts, calls for speculation.  
 24 BY THE WITNESS:

1 one L, with an E, without an E. I don't pay a lot  
 2 of attention.  
 3 So, with this particular one, it  
 4 potentially could make sense that it is Rachelle  
 5 Galant that's part of the team.  
 6 Q. Do you know who she meant by Maria?  
 7 A. No.  
 8 Q. Do you know who she meant by Karen?  
 9 A. No. Not with certainty, no.  
 10 Q. Do you see the last name is Vicki  
 11 Freeman?  
 12 A. Yes.  
 13 Q. Do you know who Vicki was? Do you  
 14 recall who Vicki Freeman was?  
 15 A. I remember the name, yes.  
 16 Q. Do you recall which department she was  
 17 in?  
 18 A. Not 100 percent certain. I'm not  
 19 100 percent certain. Customer service maybe.  
 20 Maybe in customer service.  
 21 Q. If you go up above in the response to  
 22 Nancy Baran's e-mail, you send Nancy Baran a  
 23 response saying, "Nancy, you are doing a nice job.  
 24 I know it is exhausting and you are meeting

1 A. No, and -- and, again, you know, I think  
 2 we -- again, this is just me personally. When you  
 3 write e-mails at that particular time, it's words  
 4 that come to mind and it's -- you know, if you  
 5 reflect back on something now, it's six and a half  
 6 years later or, you know, whatever the number is,  
 7 you know, knowing that others are going to read it,  
 8 would you write things potentially different, use a  
 9 different word? Yeah, maybe.  
 10 So, I don't really know, you know,  
 11 what -- what that is. It was more of an  
 12 encouraging to her, "Hey, great job with this. You  
 13 know, I know it's potentially probably a lot of  
 14 work and, you know, I'm here for you."  
 15 BY MR. MELAMED:  
 16 Q. Right. You wrote those things. You  
 17 wrote, "You are doing a nice job." You wrote, "I  
 18 know it's exhausting and it's a lot of work." And  
 19 then you also wrote, "You're meeting resistance.  
 20 Stay strong."  
 21 So, that implies that somebody or  
 22 something was resisting. I'm just asking, yes, no,  
 23 I don't recall, whether you recall from whom she  
 24 met resistance.

1 MR. DIAMANTATOS: Objection to form.  
 2 MR. ROTH: Objection to form.  
 3 MR. DIAMANTATOS: Objection to  
 4 mischaracterizing the witness' testimony.  
 5 Objection to instructing the witness how to answer  
 6 the question.  
 7 BY THE WITNESS:  
 8 A. I don't recall why I would have wrote  
 9 that.  
 10 BY MR. MELAMED:  
 11 Q. Okay. She responds, "Thanks for your  
 12 words of encouragement. If you only knew what I am  
 13 up against... I would take an out if that were an  
 14 option."  
 15 Do you have any understanding of what  
 16 she meant when she said, "If you only knew what I  
 17 am up against"?  
 18 MR. DIAMANTATOS: Objection; form, foundation,  
 19 calls for speculation.  
 20 BY THE WITNESS:  
 21 A. No, I do not.  
 22 BY MR. MELAMED:  
 23 Q. You don't recall her talking to you  
 24 beyond the words in this e-mail about what she was

1 BY THE WITNESS:  
 2 A. Again, I don't recall, but I see my name  
 3 on it so it would make sense that it was -- I was  
 4 part of it when it came out.  
 5 BY MR. MELAMED:  
 6 Q. Let's start at the last-in-time and then  
 7 move forward. So, start on page with the Bates No.  
 8 ending 2201.  
 9 And the first e-mail is from Vicki  
 10 Freeman to you referring to "quantities on orders  
 11 listed below that have pended in SOM because they  
 12 have lifted December order amount above anything  
 13 ordered before."  
 14 Do you see that?  
 15 A. Yes.  
 16 Q. And these concern AmerisourceBergen --  
 17 AmerisourceBergen orders for OxyContin tabs.  
 18 Correct?  
 19 MR. SCHOCK: Object to form.  
 20 BY THE WITNESS:  
 21 A. It says Oxy tabs. I don't -- did you --  
 22 BY MR. MELAMED:  
 23 Q. If you look at the first sentence of the  
 24 second paragraph, it says, "Please take a look at

1 up against?  
 2 A. No, I do not recall that.  
 3 Q. Handing you what's been marked  
 4 Exhibit 13.  
 5 (WHEREUPON, a certain document was  
 6 marked as Allergan-Dorsey Exhibit  
 7 No. 13: 1/3/13 e-mail string;  
 8 Acquired\_Actavis\_00352198 -  
 9 00352202.)  
 10 BY MR. MELAMED:  
 11 Q. Exhibit 13 is an e-mail string, most  
 12 recent in time from Vicki Freeman to Rachelle  
 13 Galant, Michael Dorsey, Maria Lesny, cc'ing others,  
 14 dated January 3, 2013, subject, "Re: ABC orders  
 15 pended in SOM for Oxy tabs." String starts at  
 16 Acquired\_Actavis\_00352198 and continues through to  
 17 202.  
 18 Do you recall this e-mail exchange?  
 19 A. It doesn't come to mind before having it  
 20 presented in front of me.  
 21 Q. Do you have any reason to doubt you  
 22 received the e-mails that were sent to you in this  
 23 e-mail exchange?  
 24 MR. DIAMANTATOS: Objection; form.

1 the 4 of ABC orders for Oxy tabs."  
 2 A. Yes.  
 3 Q. And it says, "They are all over monthly  
 4 maximum quantities ever ordered for," two numbers,  
 5 "and have ordered over maximum for" a third number.  
 6 Do you see that?  
 7 A. Yes.  
 8 Q. So, this concerns orders by  
 9 AmerisourceBergen for OxyContin tablets, correct?  
 10 MR. SCHOCK: Object to form.  
 11 BY THE WITNESS:  
 12 A. I don't know if it's OxyContin.  
 13 Where -- I guess -- you'd have to be identified by  
 14 an NDC. So, I'm not sure if it's OxyContin or  
 15 oxycodone.  
 16 BY MR. MELAMED:  
 17 Q. Okay. So, it is either for OxyContin or  
 18 oxycodone. Is that your understanding?  
 19 A. If you want to know I guess what it is,  
 20 the best thing to know would be the actual NDC.  
 21 Otherwise it's --  
 22 Q. Are the NDC numbers listed here as  
 23 287811, 2897911, 287911?  
 24 A. NDCs are normally an 11, 542. Normally

1 11 digits.  
 2 Q. So, Vicki concludes above the listing of  
 3 the order, she says, "Before I can release I need a  
 4 valid reason for doing so."  
 5 Do you see that?  
 6 A. Yes.  
 7 Q. And, so, you respond in an e-mail  
 8 spanning from 200 to 201 and you say, "ABC is  
 9 saying that their inventory is getting low due to  
 10 customer demand."  
 11 Do you see that?  
 12 A. Yes.  
 13 MR. SCHOCK: Object to form.  
 14 BY MR. MELAMED:  
 15 Q. Did you do -- did you inquire further as  
 16 to the reason for increased customer demand?  
 17 A. For Actavis product?  
 18 Q. "ABC is saying that their inventory is  
 19 getting low due to customer demand."  
 20 So, do you understand that to mean there  
 21 was increased customer demand at ABC for this  
 22 product?  
 23 MR. DIAMANTATOS: Objection; foundation.  
 24 MR. SCHOCK: Object to form.

1 manufacturers Mali and Quali are not fulfilling" --  
 2 "are not fulling filling orders," but fulfilling  
 3 orders.  
 4 A. Yeah.  
 5 Q. Right?  
 6 A. Correct.  
 7 Q. Do you understand that you meant there  
 8 were two separate reasons that AmerisourceBergen  
 9 provided you for these increased order amounts?  
 10 MR. SCHOCK: Object to form.  
 11 BY THE WITNESS:  
 12 A. I guess my understanding I guess is for  
 13 the most part how would they -- what they were  
 14 reporting was that, again, it's the end of the year  
 15 and there's at times where quotas run out for other  
 16 manufacturers and there's demand from physicians  
 17 writing -- writing prescriptions to the -- for the  
 18 patients that can't be filled through this other  
 19 product.  
 20 So, that's -- I guess what I'm gleaning  
 21 out of this is that's why the Actavis POs were --  
 22 were greater than what they were in the past.  
 23 BY MR. MELAMED:  
 24 Q. Did you write any of that -- let me

1 BY THE WITNESS:  
 2 A. No. Again -- again, I would have to  
 3 revisit that conversation because what it could --  
 4 I guess if you're reading -- reading through it, it  
 5 could potentially also mean that their inventory is  
 6 getting low, their inventory on the Actavis  
 7 products was getting low due to customer demand.  
 8 There is two other manufacturers that  
 9 are not filling orders probably because they ran  
 10 out of quota.  
 11 BY MR. MELAMED:  
 12 Q. Right.  
 13 A. Again, that's speculation. Who knows  
 14 why they're not shipping or filling orders.  
 15 Q. Right. You have -- there are two -- I  
 16 agree with you, that your explanation is that there  
 17 are two reasons you give in response to Vicki.  
 18 One, the first sentence says, "ABC is saying that  
 19 their inventory is getting low due to customer  
 20 demand."  
 21 Do you see that?  
 22 A. Yes.  
 23 Q. And then the second sentence, you say,  
 24 "In addition," another reason, "the other

1 withdraw that.  
 2 You just said, "It's the end of the year  
 3 and there are times when quotas run out for other  
 4 manufacturers and there is demand from physicians  
 5 writing prescriptions for patients that can't be  
 6 filled through this other product. So, what I'm  
 7 gleaning out of this is that's the reason why  
 8 Actavis purchase orders were greater than they were  
 9 in the past."  
 10 But that's not what you wrote here.  
 11 What you wrote here is, "ABC is saying that their  
 12 inventory is getting low due to customer demand.  
 13 In addition, the other manufacturers Mali and Quali  
 14 are not fulfilling orders."  
 15 Do you see that?  
 16 A. Yes.  
 17 MR. ROTH: Objection; form, argumentative.  
 18 MR. SCHOCK: Form.  
 19 BY MR. MELAMED:  
 20 Q. Did you do anything to determine why  
 21 inventory at ABC was getting low due to customer  
 22 demand?  
 23 MR. DIAMANTATOS: Objection; form.  
 24 MR. SCHOCK: Objection; form.



1 MR. DIAMANTATOS: Foundation, assumes facts.  
 2 BY THE WITNESS:  
 3 A. The only thing what it looks like here  
 4 is I had a conversation, and this is what -- this  
 5 was what was communicated back to me why the orders  
 6 were greater than normal.  
 7 Q. And do you see Vicki's response to you?  
 8 A. Yes.  
 9 Q. And she says, "I struggle with this one.  
 10 We can't cut the order as that is not allowed."  
 11 Do you understand why she said that?  
 12 MR. DIAMANTATOS: Objection; form, foundation,  
 13 calls for speculation.  
 14 BY THE WITNESS:  
 15 A. No, I do not.  
 16 BY MR. MELAMED:  
 17 Q. What do you understand that sentence to  
 18 mean?  
 19 MR. DIAMANTATOS: Objection; form.  
 20 MR. ROTH: Same objection; asked and answered.  
 21 BY THE WITNESS:  
 22 A. I -- I don't know what she means when  
 23 she, "Says we can't cut the order."  
 24 BY MR. MELAMED:

1 MR. SCHOCK: Objection; form.  
 2 MR. DIAMANTATOS: Foundation, calls for  
 3 speculation.  
 4 BY THE WITNESS:  
 5 A. I guess that's potentially, that's what  
 6 what's in her head, that potential.  
 7 BY MR. MELAMED:  
 8 Q. I just asked whether you see that that's  
 9 what's written.  
 10 A. I see what's -- that's written, yes.  
 11 Q. Do you have any understanding of what it  
 12 means that Mali and Quali may have decided that ABC  
 13 gets no more Oxy this month?  
 14 MR. DIAMANTATOS: Objection; foundation, calls  
 15 for speculation.  
 16 MR. SCHOCK: Form.  
 17 BY THE WITNESS:  
 18 A. No, I do not.  
 19 BY MR. MELAMED:  
 20 Q. How would you interpret that sentence?  
 21 MR. DIAMANTATOS: Objection; foundation.  
 22 MR. SCHOCK: Object to form.  
 23 MR. ROTH: Same objection; asked and answered.  
 24 BY THE WITNESS:

1 Q. She -- presumably she wrote this to you  
 2 to be communicative.  
 3 MR. DIAMANTATOS: Objection.  
 4 BY MR. MELAMED:  
 5 Q. Correct?  
 6 MR. DIAMANTATOS: Sorry. Objection; form.  
 7 MR. ROTH: Calls for speculation.  
 8 BY THE WITNESS:  
 9 A. Let me read the...  
 10 No, I don't see a direction as far as to  
 11 have that conversation. I see additional  
 12 questions.  
 13 Again, it's a puzzle. You are trying to  
 14 figure out what is going on in the marketplace. So  
 15 then we don't know why, but two other manufacturers  
 16 aren't able to fill the orders with 100 percent  
 17 certainty and then asking Nancy to weigh in on what  
 18 the -- what her thoughts are.  
 19 BY MR. MELAMED:  
 20 Q. Do you see that Vicki wrote, "I can't  
 21 help but entertain the possibility that Mali and  
 22 Quali may have decided that ABC gets no more Oxy  
 23 this month"?  
 24 MR. DIAMANTATOS: Objection; form.

1 A. I don't know. I mean, I look for in  
 2 e-mails here's findings, here's any actionable  
 3 items, here's questions and I -- I don't know. I  
 4 don't know what to think what her thought process  
 5 was on that question or that thought.  
 6 BY MR. MELAMED:  
 7 Q. So, Maria then responds, and we talked  
 8 about Maria in a prior e-mail as being part of an  
 9 SOM monitoring team. Do you remember that?  
 10 A. Yes.  
 11 Q. So, do you believe the person meant by  
 12 Maria in that prior e-mail was Maria Lesny? It's  
 13 not in front of you.  
 14 A. It was -- I know. It was back here.  
 15 Just -- it could have -- may have been, yes. At  
 16 SOMs.  
 17 Q. And she writes, "Just to add my  
 18 two cents...ABC has open orders from December 20,  
 19 2012 that Rachelle did not fill which leads me to  
 20 believe that they had their fill of Oxy for the  
 21 month too."  
 22 Do you see that?  
 23 A. Yes.  
 24 MR. SCHOCK: Object to form.

1 BY MR. MELAMED:  
2 Q. And she continues and the final sentence  
3 is, "But how can we express that in SOM terms to  
4 release the orders when it is apparent they are  
5 ordering from us because they cannot obtain it  
6 form," probably means from, "the others."  
7 Do you see that?  
8 MR. SCHOCK: Object to form.  
9 BY THE WITNESS:  
10 A. Yes, I see it.  
11 BY MR. MELAMED:  
12 Q. Do you understand what she's writing in  
13 that -- what she means by that sentence?  
14 MR. DIAMANTATOS: Objection; form, foundation,  
15 calls for speculation.  
16 BY MR. MELAMED:  
17 Q. Let me actually withdraw it and state it  
18 a different way.  
19 What is your understanding of what that  
20 sentence means?  
21 MR. ROTH: Same objection.  
22 MR. SCHOCK: Form.  
23 BY THE WITNESS:  
24 A. I don't know. Again, that SOMs and that

1 (Rochester Drug)," runs from Bates  
2 No. Acquired\_Actavis\_00353871 through 874.  
3 So, actually, let me start by asking  
4 whether you recognize this e-mail string.  
5 A. No, I do not.  
6 Q. You recognize that you are a participant  
7 in the messages in this e-mail string?  
8 A. Yes.  
9 Q. Do you have any reason to doubt that you  
10 didn't receive the messages that were sent --  
11 indicate they were sent to you?  
12 A. Based on what's -- what's presented in  
13 front of me, no, it appears that I'm part of that,  
14 yes.  
15 Q. Okay. And there is one e-mail that  
16 appears to be from you. Do you have any reason to  
17 believe you didn't send that e-mail?  
18 MR. DIAMANTATOS: Objection; form.  
19 MR. ROTH: Objection; form.  
20 BY THE WITNESS:  
21 A. As this particular time, all I can do is  
22 comment what's presented in front of me and it  
23 would appear.  
24 BY MR. MELAMED:

1 process and that department and next steps and what  
2 they do is not -- I'm not really privy to that.  
3 So, I really can't provide comment.  
4 BY MR. MELAMED:  
5 Q. Do you know whether DEA was ever  
6 notified about this order?  
7 MR. DIAMANTATOS: Objection; form, foundation.  
8 BY THE WITNESS:  
9 A. Again, since it's out of my realm of  
10 what they -- what they do when they report and  
11 that, I don't know. Sorry.  
12 BY MR. MELAMED:  
13 Q. Handing you what's been marked as  
14 Exhibit 14.  
15 (WHEREUPON, a certain document was  
16 marked as Allergan-Dorsey Exhibit  
17 No. 14: E-mail string;  
18 Acquired\_Actavis\_00353871 -  
19 00353874.)  
20 BY MR. MELAMED:  
21 Q. Exhibit 14 is an e-mail string. Most  
22 recent in time has a blank "From" line but it's  
23 signed by Rachelle Galant to Nancy Baran, Michael  
24 Dorsey, subject, "Re: Orders on OI hold status

1 Q. First I'll note just from your e-mail  
2 address on 872 that it's from  
3 Michael.Dorsey@Watson.com as of this date, this is  
4 January 22, 2013.  
5 Do you recall whether the suspicious  
6 order monitoring protocols changed once Watson took  
7 over Actavis?  
8 MR. ROTH: Object to form.  
9 BY MR. MELAMED:  
10 Q. Let me withdraw that.  
11 Do you recall whether the suspicious  
12 order monitoring protocols changed once Watson and  
13 Actavis merged?  
14 A. I'm -- again, just due to not being a  
15 part of it, I don't know what changed, what stayed  
16 the same, what modifications. So, unfortunately,  
17 no, I don't know.  
18 Q. So, if you look at the first e-mail in  
19 time from Maria Lesny to a series of recipients  
20 including you, it mentioned, it discusses three  
21 orders on hold.  
22 But if you look at the first sentence it  
23 says, "Not to lose sight of the couple of OI holds  
24 we currently have."

1 Do you know what OI means in that  
2 sentence?  
3 MR. DIAMANTATOS: Objection; calls for  
4 speculation, foundation.  
5 BY THE WITNESS:  
6 A. No, I don't.  
7 BY MR. MELAMED:  
8 Q. Do you have -- you have no understanding  
9 of what OI means?  
10 MR. DIAMANTATOS: Objection.  
11 BY THE WITNESS:  
12 A. No. No. Sorry.  
13 BY MR. MELAMED:  
14 Q. And do you see that Item No. 2 is a  
15 Rochester Drug order and it says, "Rachelle  
16 reviewed quantity and also believed this to be very  
17 high and out of the norm. Mike Dorsey to contact  
18 customer and advise such a high increase in their  
19 ordering pattern."  
20 Do you see that?  
21 A. Yes.  
22 Q. Then it says, "SOM rep Maria." Do you  
23 know what -- what was the SOM rep's role in this  
24 transaction?

1 being closed next week."  
2 Do you see that?  
3 A. Yes.  
4 Q. And then Nancy Baran responds to that  
5 saying, "We should discuss this one further."  
6 A. Yep.  
7 Q. Do you recall discussing this order  
8 further with Nancy Baran?  
9 MR. DIAMANTATOS: Objection; form.  
10 BY THE WITNESS:  
11 A. From this particular time, no, I don't  
12 remember the discussion.  
13 BY MR. MELAMED:  
14 Q. Do you know if that -- the "we" was  
15 meant to include you?  
16 MR. DIAMANTATOS: Objection; calls for  
17 speculation, form.  
18 BY THE WITNESS:  
19 A. Again, I don't know. I wasn't the  
20 author of it. So, I'm not sure how, what she meant  
21 by "we."  
22 BY MR. MELAMED:  
23 Q. So, if you continue up and go to the  
24 first e-mail in time, which is signed by Rachelle

1 MR. DIAMANTATOS: Objection; form, foundation,  
2 calls for speculation.  
3 BY THE WITNESS:  
4 A. I really don't know what -- what her  
5 role was with -- as far as it looks like she was  
6 within the SOMs, but I'm not quite sure specific  
7 how it tied with myself and/or the account.  
8 BY MR. MELAMED:  
9 Q. And then Dakota Drug, No. 3, also is on  
10 hold for oxycodone, "Mike Dorsey is going to speak  
11 with the customer to see if there is a  
12 justification (SOM rep Karen)."  
13 Do you see that?  
14 A. Yes.  
15 Q. And I didn't mention it, but you see the  
16 Rochester Drug order was for oxycodone  
17 15 milligrams and 30 milligrams?  
18 A. Yes.  
19 Q. And then you forward a response from  
20 Tracy Plouffe at Rochester Drug Cooperative, which  
21 explains that "Oxy 15 milligram and 30 milligram  
22 purchases have increased through Actavis due to  
23 supply shortages and Mallinckrodt and Qualitest are  
24 not supplying us on a consistent basis and Actavis

1 Galant but for some reason the from and sent date  
2 didn't come through on the header.  
3 A. Okay.  
4 Q. She writes, "See below for my analysis  
5 on the Opti-Source current open orders and their  
6 historical usage."  
7 Do you understand what Opti-Source  
8 refers to?  
9 A. Yes.  
10 Q. What is that?  
11 A. Opti-Source is a GPO or like -- it's a  
12 buying group.  
13 Q. Okay. And, so, each of the listed  
14 customers in the chart below are members of the  
15 Opti-Source buying group?  
16 MR. DIAMANTATOS: Objection; form, foundation.  
17 BY THE WITNESS:  
18 A. Based upon -- it's a fluid. They have  
19 changed over time. So, I'm not sure the time stamp  
20 what their wholesale -- wholesale membership made  
21 of. But this looks like a representative of it.  
22 BY MR. MELAMED:  
23 Q. And you see in the chart below, it  
24 references -- Rochester Drug was one of your

1 customers mentioned in the first e-mail in time,  
 2 correct?  
 3 A. Yes.  
 4 Q. Okay. And you see under the oxycodone  
 5 30 milligram chart, which is the first one,  
 6 Rochester Drug had an average of 4,344 and went up  
 7 to 8,640 open and shipped.  
 8 Do you see that?  
 9 A. Yeah, so I see six-month average of  
 10 4,344 was actual and then the 8,640 is actual plus  
 11 also open, yes.  
 12 Q. And that is for the month of January, if  
 13 you look back at the other dated e-mails?  
 14 A. I just want to make sure. Okay. Oh,  
 15 yes, yes. I got you. All right.  
 16 Q. So, the "Open Plus Shipped" column in  
 17 that refers to January open and shipped orders?  
 18 MR. DIAMANTATOS: Objection; form, foundation.  
 19 BY THE WITNESS:  
 20 A. I guess the time period I'm not  
 21 100 percent sure if they're -- if they're tied  
 22 together just because I didn't -- I don't, yeah.  
 23 BY MR. MELAMED:  
 24 Q. Do you know whether that order shipped?

1 shipped and what did not.  
 2 BY MR. MELAMED:  
 3 Q. On the first page under those charts do  
 4 you see "Value Altoona PA"?  
 5 A. Yes.  
 6 Q. And it's in each of the charts, right?  
 7 A. Correct.  
 8 Q. Was that your customer?  
 9 A. Yes.  
 10 Q. Do you know whether those open plus  
 11 shipped amounts for each of the oxycodone tabs,  
 12 30 milligram and 15 milligram, shipped?  
 13 MR. DIAMANTATOS: Objection; form, foundation,  
 14 assumes facts.  
 15 BY THE WITNESS:  
 16 A. No, I don't have an understanding of  
 17 what shipped and what did not ship.  
 18 BY MR. MELAMED:  
 19 Q. I'm handing you what's been marked  
 20 Exhibit 15.  
 21 (WHEREUPON, a certain document was  
 22 marked as Allergan-Dorsey Exhibit  
 23 No. 15: 10/29/14 e-mail string;  
 24 Acquired Actavis\_00248484 -

1 MR. DIAMANTATOS: Objection; form.  
 2 BY MR. MELAMED:  
 3 Q. The 8 --  
 4 MR. DIAMANTATOS: Sorry.  
 5 MR. MELAMED: Just to be clear and then I will  
 6 let you make the objection.  
 7 MR. DIAMANTATOS: Sure.  
 8 BY MR. MELAMED:  
 9 Q. The 8,640 open and shipped, do you know  
 10 whether all of those ended up shipping from Actavis  
 11 to Rochester Drug?  
 12 MR. DIAMANTATOS: Objection; form, assumes  
 13 facts.  
 14 BY THE WITNESS:  
 15 A. No, I do not know that.  
 16 BY MR. MELAMED:  
 17 Q. Do you know whether all of the 1,368  
 18 open and shipped 15 milligram oxycodone tab orders  
 19 for Rochester Drug that are listed in the second  
 20 table shipped?  
 21 MR. DIAMANTATOS: Objection; form, foundation,  
 22 assumes facts.  
 23 BY THE WITNESS:  
 24 A. I'm not quite sure of that number, what

1 00248489.)  
 2 BY MR. MELAMED:  
 3 Q. Exhibit 15 is an e-mail string most  
 4 recent in time from Jeffrey Foreman to Michael  
 5 Dorsey, sent October 29, 2014, subject, "Re: Hydro  
 6 Omits." Bates range Acquired\_Actavis\_0248484 to  
 7 8489.  
 8 Quick question before we go into this  
 9 exhibit.  
 10 In the prior exhibit, Exhibit 14, you  
 11 said you did not know whether certain orders that I  
 12 asked about shipped. Do you know who would know  
 13 that information?  
 14 MR. DIAMANTATOS: Objection; form, calls for  
 15 speculation, vague.  
 16 BY THE WITNESS:  
 17 A. I don't know specifically. I always  
 18 start with sometimes anything that ships would  
 19 probably fall within customer service.  
 20 BY MR. MELAMED:  
 21 Q. And given the identities of the people  
 22 on the e-mail, would that be -- would Nancy Baran  
 23 be somebody to ask about that?  
 24 MR. DIAMANTATOS: Objection; form.

<p style="text-align: right;">Page 241</p> <p>1 BY MR. MELAMED:</p> <p>2 Q. She was in customer service at that</p> <p>3 point, right?</p> <p>4 MR. DIAMANTATOS: Objection; foundation, form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I'm not the expert at it, but Nancy</p> <p>7 Baran headed up the customer service and looks like</p> <p>8 also was an integral part with the SOMs.</p> <p>9 BY MR. MELAMED:</p> <p>10 Q. And was Rachelle -- I'm sorry --</p> <p>11 Rachelle Galant in customer service?</p> <p>12 A. No, I -- well, that's who I thought of.</p> <p>13 Senior product manager. I always kind of thought</p> <p>14 of her as like a product manager.</p> <p>15 Q. Just to be clear, product management --</p> <p>16 Rachelle -- because Rachelle Galant is a senior</p> <p>17 product manager, she was not in the customer</p> <p>18 service group, right?</p> <p>19 MR. ROTH: Objection; lacks foundation, calls</p> <p>20 for speculation, mischaracterizes the record in</p> <p>21 this case.</p> <p>22 (Clarification requested by the</p> <p>23 reporter.)</p> <p>24 MR. ROTH: Lacks foundation, calls for</p>	<p style="text-align: right;">Page 242</p> <p>1 speculation, mischaracterizes the record in this</p> <p>2 case.</p> <p>3 BY MR. MELAMED:</p> <p>4 Q. Just tell -- do you know whether she was</p> <p>5 in the customer service group?</p> <p>6 A. Best of my knowledge, she was product --</p> <p>7 in the product management only.</p> <p>8 Q. And product management was a group</p> <p>9 separate from customer service?</p> <p>10 A. Yes.</p> <p>11 MR. ROTH: Lacks foundation.</p> <p>12 BY THE WITNESS:</p> <p>13 A. My understanding, yes.</p> <p>14 BY MR. MELAMED:</p> <p>15 Q. Returning to Exhibit 15, you'll see it</p> <p>16 starts off with an e-mail from Jeffrey Foreman</p> <p>17 which says, "When will Actavis get ABDC in stock on</p> <p>18 Hydro/Apap 5/325?"</p> <p>19 That's at the -- on page ending 489. Do</p> <p>20 you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And then it continues and there is a</p> <p>23 series of e-mails, and I apologize for the</p> <p>24 formatting, but this is the manner we received</p>
<p style="text-align: right;">Page 243</p> <p>1 them, where there's a series of listing of tracking</p> <p>2 information.</p> <p>3 I want you to skip ahead to the e-mail</p> <p>4 on 486 where you write to Jeff Foreman at Walgreens</p> <p>5 and you say that "500 count bottles will be shipped</p> <p>6 out on Monday," and you include other information</p> <p>7 about what else is being shipped.</p> <p>8 And then you say, "A question I'm being</p> <p>9 asked is this: Are the stores ordering more than</p> <p>10 usual? They should have had over 30 days' worth on</p> <p>11 their shelves October 6. Is there a way for you to</p> <p>12 determine if they are enhancing their ordering</p> <p>13 compared to their dispensing? Please let me know</p> <p>14 if you have any further questions."</p> <p>15 Do you recall this exchange with</p> <p>16 Mr. Foreman?</p> <p>17 A. Not off the top of my head, but I see</p> <p>18 it.</p> <p>19 Q. Do you have any reason to doubt that you</p> <p>20 participated in this exchange with Mr. Foreman?</p> <p>21 MR. DIAMANTATOS: Objection; form,</p> <p>22 argumentative.</p> <p>23 BY THE WITNESS:</p> <p>24 A. I mean, based upon what's on presented,</p>	<p style="text-align: right;">Page 244</p> <p>1 yes, it appears that we had this.</p> <p>2 BY MR. MELAMED:</p> <p>3 Q. Concerning your comment, "The question I</p> <p>4 am being asked is this: Are the stores ordering</p> <p>5 more than usual?" Do you recall who was asking you</p> <p>6 that question?</p> <p>7 MR. SCHOCK: Object to form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Specifically, no.</p> <p>10 BY MR. MELAMED:</p> <p>11 Q. Were you ever asked that question with</p> <p>12 regard to any of your other customers' orders?</p> <p>13 MR. DIAMANTATOS: Objection; form, vague.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I -- I guess nothing comes to mind right</p> <p>16 now if I was or wasn't.</p> <p>17 BY MR. MELAMED:</p> <p>18 Q. You answered when I asked you if you</p> <p>19 recalled who asked you that question, you said,</p> <p>20 "Specifically, no."</p> <p>21 Is there a general answer, "I was --</p> <p>22 certain people asked me these types of questions</p> <p>23 periodically"?</p> <p>24 MR. DIAMANTATOS: Objection; form.</p>

1 BY MR. MELAMED:

2 Q. I'm questioning your use of the word  
3 "specifically" there.

4 A. Yeah.

5 MR. DIAMANTATOS: Objection; form. Go ahead.

6 BY THE WITNESS:

7 A. No, I mean, potentially where this would  
8 come up is I think similar, we talked about similar  
9 examples where could be SOMs, could be customer  
10 service, it could be certain -- certain departments  
11 that are noticing things that then it works its way  
12 to me to have that conversation with the account to  
13 find out what, you know, what's behind it.

14 BY MR. MELAMED:

15 Q. And then the exchange continues,  
16 Mr. Foreman says, "Who says they should have had 30  
17 days on hand?"

18 And you say, "We have been told in the  
19 past that stores have about 30 days on hand," and  
20 you continue.

21 And then in the most recent e-mail in  
22 time Mr. Foreman says, "Depending on the products  
23 we may have had 30 days although that can vary due  
24 to a number of factors, however I'm not sure on

1 hydros that we did."

2 He says, "It was difficult to bring in  
3 extra days of controlled substances because it  
4 would have triggered suspicious orders at  
5 wholesaler and subject us to being flagged to the  
6 DEA."

7 Do you understand what he means by that?

8 MR. DIAMANTATOS: Objection.

9 MR. SCHOCK: Form.

10 MR. DIAMANTATOS: First, mischaracterizes the  
11 e-mail exchange and what Mr. Foreman said on his  
12 previous e-mail. Second, foundation, it calls for  
13 speculation.

14 BY THE WITNESS:

15 A. No, I'm trying to think what this was  
16 all about as far as omits.

17 So, he starts off, because it looks --  
18 it's just a form.

19 Okay. I believe the overall -- so,  
20 obviously, it starts off with a communication about  
21 omits, that their stores were ordering X amount and  
22 only X amount was shipped.

23 I believe what was going on here with  
24 the hydros, and, again, it's -- I'm looking just

1 off of what he is writing and what I have -- I  
2 wrote.

3 So, this appears to be the period in  
4 time that hydrocodone/Apaps move from a C-III to a  
5 C-II. So, it looks like there was a -- and again,  
6 I don't remember the full story behind that what we  
7 as a manufacturer have to do as far as --

8 (Clarification requested by the  
9 reporter.)

10 BY THE WITNESS:

11 A. I guess I don't remember the full story  
12 behind going from a -- in a timing and all the step  
13 by step from classifying from a C-III going to a  
14 C-II, but it appears that there was a gap in -- gap  
15 in supply because I believe, again, as a  
16 manufacturer, you need to change your labeling on  
17 the bottles from C-IIIs to C-IIs and there is a lot  
18 of time for that to be done.

19 So, that could have been why there was  
20 gaps and why it was bringing up in questions of  
21 where is the product.

22 So, I think that's -- that's really the  
23 overall communication here is what's going on and  
24 it had to do with, it was all during the transition

1 period from a C-III to a C-II.

2 BY MR. MELAMED:

3 Q. And do you understand Mr. Foreman's most  
4 recent e-mail in time to express concern about  
5 avoiding triggering suspicious orders at wholesaler  
6 and subject Walgreens to being flagged to the DEA?

7 MR. DIAMANTATOS: Objection; form, foundation,  
8 mischaracterizes the e-mail and is asking the  
9 witness to speculate.

10 BY THE WITNESS:

11 A. I'm not quite sure what Jeff is  
12 trying -- trying to say here.

13 BY MR. MELAMED:

14 Q. So, he sent you e-mails that you didn't  
15 understand?

16 MR. DIAMANTATOS: Objection; form,  
17 argumentative. Same objections as above.

18 BY THE WITNESS:

19 A. I'm not understanding what -- again,  
20 it's not a -- it's not my -- I guess in my  
21 wheelhouse of day-to-day, so I don't understand  
22 what does, what doesn't. This -- that's from his  
23 perspective, from a retailer and chain. I just  
24 know the little piece of the pie that I operate in.



1 BY MR. MELAMED:

2 Q. Handing you what's been marked  
3 Exhibit 16.

4 (WHEREUPON, a certain document was  
5 marked as Allergan-Dorsey Exhibit  
6 No. 16: 7/23/15 e-mail string;  
7 Acquired\_Actavis\_00254144 -  
8 00254146.)

9 BY MR. MELAMED:

10 Q. Exhibit 16 is an e-mail exchange, most  
11 recent in time from Michael Dorsey to Violet  
12 Saakyan, dated July 23, 2015, subject "Re:  
13 Hydrocodone/ibuprofen - new award?" String runs  
14 from Acquired\_Actavis\_00254144, concludes on 4146.

15 Do you recall this e-mail exchange?

16 A. No, not before seeing it right here.

17 Q. Going to the first-in-time, the last  
18 one, which starts on 54145, from Violet Saakyan?

19 A. Close enough.

20 Q. How do I properly pronounce the name?

21 A. I was never sure myself. So, you're as  
22 good as I.

23 Q. She references an order and says, "Has  
24 there been any new awards on this SKU? ABC is

1 buying heavy this month. Sales are not showing in  
2 the market cube and there is nothing in our  
3 trackers."

4 First, do you know -- do you have any  
5 understanding of what market cube refers to?

6 A. No, I do not know what that is.

7 Q. Do you have any understanding of what  
8 she means by "our trackers"?

9 MR. DIAMANTATOS: Objection; form, foundation.

10 BY THE WITNESS:

11 A. No, I guess there was a -- whether it be  
12 a tool or whatever you want to frame that, I don't  
13 know. I was not -- did not use that.

14 BY MR. MELAMED:

15 Q. Okay. If you look at the chart below,  
16 it's -- am I correct that it reflects sales of  
17 hydrocodone/ibuprofen 7.5/200 milligram tabs to  
18 AmerisourceBergen, and it reflects direct sales  
19 from January 2015 to July of 2015?

20 A. That's what I see as well.

21 Q. It goes from 100 -- quantity sales of  
22 100 in January, to 120 in February, to 132 in  
23 March, to 216 in April, to 252 in May, to 300 in  
24 June, to 6,060 in July?

1 A. That's what I show.

2 Q. And do you have any understanding of why  
3 Ms. Saakyan would be asking whether there were any  
4 new awards on this SKU?

5 MR. DIAMANTATOS: Objection; form, foundation,  
6 calls for speculation.

7 MR. SCHOCK: Objection; form.

8 BY THE WITNESS:

9 A. No, I can't -- I don't understand -- I  
10 don't know I guess why, since I wasn't the author  
11 of the e-mail.

12 BY MR. MELAMED:

13 Q. Do you know what is meant by the phrase  
14 "new awards on this SKU"?

15 A. Again, not the author. However, you  
16 know, there would -- I guess I would question that  
17 maybe is there -- was there a new award for Teva  
18 or -- what were we? '15. So we're probably  
19 Actavis. Was there any new awards for -- was there  
20 a customer that awarded this product to us. I  
21 believe that's probably what she's trying to get.  
22 There -- if that makes sense.

23 BY MR. MELAMED:

24 Q. And is your understanding that she is

1 asking that because she is trying to determine the  
2 reason for the increased quantity in sales of  
3 hydrocodone/ibuprofen to AmerisourceBergen Corp.?

4 MR. DIAMANTATOS: Objection; form, foundation.

5 MR. SCHOCK: Form.

6 MR. DIAMANTATOS: Calls for speculation.

7 BY THE WITNESS:

8 A. Again, she -- she wrote it. I would  
9 hate to have, you know, to think, think what  
10 she's -- what she's saying or why she's asking the  
11 question.

12 BY MR. MELAMED:

13 Q. Do you see the response is from a woman  
14 named or from someone named Tara Asea and says, "I  
15 just checked and wasn't able to locate any new  
16 awards. Maybe Pricing knows?"

17 Do you see that?

18 A. Yes.

19 Q. Okay. And then you respond and you say,  
20 "It should be Walgreens - see attached."

21 So, does that indicate that you had an  
22 understanding at the time what "new awards" meant?

23 A. So -- so, what it looks here based upon  
24 this e-mail is, again, I'm three and a half, it

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1 looks like what I'm showing them, because at this  
2 time, so 2015, Walgreens was purchasing all their  
3 product through AmerisourceBergen.

4 So, I -- "It should be Walgreens - see  
5 attached." So, one could take the leap that I  
6 attached the award that we -- we received from --  
7 from Walgreens and thus the reasoning why ABC would  
8 have to -- would be purchasing more to support  
9 Walgreens' needs.

10 Q. And then Ms. Saakyan responds just to  
11 you and the second sentence of what -- or I'm  
12 sorry -- the second paragraph of her response says,  
13 "Also ABC already pulled 6K - why are we doing  
14 stuff like this?"

15 And you respond?

16 MR. SCHOCK: Object to form.

17 BY MR. MELAMED:

18 Q. You say, "Violet. Question: How did  
19 SOMs not stop this order? It's a C-II."

20 Do you recall why you believe SOMs  
21 should have stopped this order?

22 MR. DIAMANTATOS: Objection; form, foundation.

23 MR. SCHOCK: Object to form.

24 MR. DIAMANTATOS: Assumes facts.

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1 question if -- if this product was -- was uploaded,  
2 and I guess I did not -- I did not get an answer  
3 back of if we uploaded this into demand forecast.  
4 If not, it appears that we -- I don't know. I  
5 don't know if we did or did not.

6 So, it's probably more of just a  
7 question of if we -- if we didn't load this into  
8 forecast, you know, I guess what -- how did the  
9 order go out or if we -- I guess I'm just -- I'm  
10 just trying to find -- I'm trying to get the full  
11 picture of information of, okay, did we load this,  
12 didn't we load it. So, I guess that's what I'm  
13 interpreting my e-mail to Violet.

14 Q. Right. So, going back to the raw  
15 numbers, they went from not even a previous six  
16 months average but a previous month purchase, which  
17 was their highest purchase in the previous six  
18 months, of 300 units up to 6,060 units. Correct?

19 MR. DIAMANTATOS: Objection; form, foundation,  
20 mischaracterizes the exhibit.

21 MR. SCHOCK: Object to form.

22 BY THE WITNESS:

23 A. Based upon the cells that are provided  
24 in front of me, it went from June, July, went to

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1 BY THE WITNESS:

2 A. So, what I'm glancing out of this is  
3 that -- July month delay. I have a -- we're  
4 building inventory.

5 So, it may have been we had the award.  
6 However, it wasn't communicated to the plant for as  
7 for increased manufacturing to help support, and  
8 now Violet is asking me if we can like have a  
9 communication discussion with Walgreens, can we  
10 delay this -- the effective date of this award  
11 because we may not be in a position to support it  
12 because it didn't get loaded. I'm kind of --

13 Q. Thanks. I was asking about your  
14 understanding of your own question, where you ask  
15 here, "How did SOMs not stop this order? It's a  
16 C-II."

17 Do you recall why you asked -- what was  
18 the motivation for that question?

19 A. The only thing I can think of why is  
20 that it's probably a -- well, it's probably out of  
21 frustration because I know I'm going to have to  
22 have a conversation with the customer and saying  
23 we're going to be delayed.

24 So, and maybe I'm -- I'm just trying to

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1 those numbers, yes.

2 BY MR. MELAMED:

3 Q. Okay. And so, am I -- and you -- your  
4 question the most recent in time is "How did SOMs  
5 not stop this order?" Correct?

6 MR. ROTH: Object to form, mischaracterizes  
7 the document.

8 MR. DIAMANTATOS: And asked and answered.

9 MR. SCHOCK: Object to form.

10 BY THE WITNESS:

11 A. That is -- that was what was written  
12 there, yes.

13 BY MR. MELAMED:

14 Q. So, is it your understanding that SOMs  
15 did not in fact stop this order?

16 MR. DIAMANTATOS: Objection; form, foundation,  
17 calls for speculation, asked and answered.

18 BY THE WITNESS:

19 A. I don't know if they -- again, in the  
20 whole process, maybe they saw, oh, it's a new award  
21 but demand planning didn't see it. I don't -- I  
22 don't know how. I don't I guess have the answer  
23 for you.

24 BY MR. MELAMED:

1 Q. Yeah. Just to be clear, I wasn't asking  
2 whether there is an explanation.  
3 A. Okay.  
4 Q. Just asking a separate question.  
5 Based on your question, which is "How  
6 did SOMs not stop this order," do I understand  
7 correctly that the fact is that SOMs did not stop  
8 this order?  
9 MR. DIAMANTATOS: Objection; form, foundation.  
10 MR. ROTH: Calls for speculation, asked and  
11 answered three times now.  
12 MR. SCHOCK: Object to form.  
13 BY THE WITNESS:  
14 A. I don't have the -- I don't have the --  
15 I guess I don't know what SOMs did or did not do.  
16 BY MR. MELAMED:  
17 Q. At this time -- do you read your  
18 question as indicating that SOMs did not stop this  
19 order?  
20 MR. DIAMANTATOS: Objection; form, foundation,  
21 asked and answered.  
22 BY THE WITNESS:  
23 A. I'm just -- again, I don't know how do  
24 I -- I'm -- I'm looking -- I'm looking for

1 I haven't understood it.  
2 You ask at the conclusion of this  
3 string, "How did SOMs not stop this order?"  
4 My question is: Did SOMs not stop that  
5 order?  
6 MR. ROTH: Objection; lacks foundation, calls  
7 for speculation, asked and answered four separate  
8 times.  
9 BY THE WITNESS:  
10 A. Again, at the juncture, I don't know if  
11 they did or didn't or the whole process. So, I  
12 just -- I apologize. I don't know how else to try  
13 to answer your question here.  
14 BY MR. MELAMED:  
15 Q. If they had stopped -- if you knew that  
16 they had stopped this order, would you have asked  
17 how they did not stop this order?  
18 MR. DIAMANTATOS: Objection; form.  
19 BY THE WITNESS:  
20 A. If they stopped the order -- I'm sorry.  
21 If they --  
22 BY MR. MELAMED:  
23 Q. If SOMs --  
24 A. Yes.

1 information. I'm trying to figure out what  
2 happened.  
3 I don't know what the answer was. I  
4 don't know the -- what SOMs saw. Did they see,  
5 okay, this is a new award and it got shipped but  
6 our plant didn't see it.  
7 BY MR. MELAMED:  
8 Q. Right.  
9 A. I don't know those -- I don't know those  
10 answers.  
11 Q. The question I'm asking is based on your  
12 question.  
13 MR. DIAMANTATOS: Counsel, I think he's  
14 answering you what his understanding was in the  
15 e-mail. I think you're taking what his response is  
16 that this is his understanding now.  
17 I think he is describing to you now for  
18 the fourth time what his answer was in the e-mail,  
19 that he's hunting for answers in this e-mail, not  
20 now. Just to be clear.  
21 BY MR. MELAMED:  
22 Q. My question, let me just be clear about  
23 my question and you can, you know, move on. I just  
24 don't think you've answered it. Maybe you have and

1 Q. -- stopped, in fact, stopped this  
2 order --  
3 A. Okay.  
4 Q. -- would you have asked how it was that  
5 they didn't stop the order?  
6 MR. DIAMANTATOS: Objection; form.  
7 MR. ROTH: Lacks foundation, calls for  
8 speculation, improper hypothetical.  
9 BY THE WITNESS:  
10 A. I guess I'm -- I guess I'm not  
11 understanding the question. If you ask them to  
12 stop but they don't stop. I apologize.  
13 BY MR. MELAMED:  
14 Q. If you were to write a question -- if  
15 you were to be in a car with somebody and there is  
16 a recording device in the car and you say, "How is  
17 it that you didn't stop at that red light," is  
18 it -- is it fair in your understanding to infer  
19 that the person did not in fact stop at that red  
20 light?  
21 MR. DIAMANTATOS: Objection; form.  
22 MR. ROTH: Calls for a legal conclusion,  
23 improper hypothetical, lacks foundation, calls for  
24 speculation.

1 BY THE WITNESS:

2 A. I don't see how the two correlate  
3 together.

4 BY MR. MELAMED:

5 Q. That's not my question, the correlation.  
6 Just if somebody said, "I don't see how you didn't  
7 stop at that red light," isn't the implication you  
8 didn't stop at that red light?

9 MR. ROTH: Same objections as the last  
10 question.

11 BY THE WITNESS:

12 A. Oh, my God. Okay. If I'm  
13 understanding, you're asking me if you were in a  
14 car with someone and you -- you're with him. You  
15 witness you go through a stoplight and then you ask  
16 them why didn't you stop through a stoplight, did  
17 they actually go through it? I'm sorry.

18 BY MR. MELAMED:

19 Q. You asked a question up here --

20 A. Yes.

21 Q. -- that says, "How did they not stop  
22 this order?" Correct?

23 A. Right.

24 Q. Is it -- and you cannot say whether in

1 fact they stopped this order, is that your  
2 understanding?

3 MR. ROTH: Objection; asked and answered six  
4 times.

5 BY THE WITNESS:

6 A. I'm -- I'm -- I'm -- part of this  
7 process is trying to figure out how did we get  
8 where we -- where we were. So, it may have been  
9 a -- just trying -- I'm asking questions to garner  
10 information.

11 So, it could have been, all right, this  
12 new award from Walgreens that ABC was supporting is  
13 loaded in the system. They know about it.

14 BY MR. MELAMED:

15 Q. I understand that.

16 A. They see that.

17 Q. I understand.

18 MR. DIAMANTATOS: Hold on, Counsel. Let him  
19 finish his answer the question. You asked a  
20 question. He is answering it.

21 MR. MELAMED: He is not answering the  
22 question. We're going back. This is why I keep  
23 asking and answered.

24 MR. ROTH: You want him to say something he is

1 not going to say.

2 MR. MELAMED: No, no.

3 MR. ROTH: So, just move on.

4 MR. MELAMED: I want him to answer honestly.

5 MR. DIAMANTATOS: He is answering honestly.

6 MR. MELAMED: I want --

7 MR. DIAMANTATOS: You've asked the question.  
8 Hang on. I've got to make a record on this.

9 MR. MELAMED: You can make it.

10 MR. DIAMANTATOS: You've asked the question,  
11 Counsel. He's responded that he doesn't know  
12 whether it was stopped, in fact stopped, went out,  
13 whatever the case is, and that he's trying to  
14 figure out what some possible reasons are. He's  
15 answered that multiple times.

16 MR. MELAMED: That's your testimony.

17 MR. DIAMANTATOS: Now we are getting more  
18 confused with the car hypotheticals.

19 MR. MELAMED: I think that's your testimony.  
20 I don't think he answered that.

21 MR. DIAMANTATOS: I have made my objection.

22 MR. MELAMED: I don't think he answered that.

23 MR. DIAMANTATOS: I've made my objection.

24 MR. MELAMED: Okay. So, I think you just

1 testified. I will answer -- I will ask the  
2 question again.

3 MR. DIAMANTATOS: Okay.

4 BY MR. MELAMED:

5 Q. Do you know whether this order in fact  
6 shipped?

7 MR. DIAMANTATOS: Objection; form, foundation,  
8 asked and answered. Go ahead.

9 BY THE WITNESS:

10 A. I don't personally know that I saw the  
11 product ship out.

12 BY MR. MELAMED:

13 Q. I'm not asking whether you saw it  
14 shipped. Do you know whether it shipped? I'm not  
15 saying you were in the facility, the warehouse,  
16 watching the pills go out the door.

17 MR. DIAMANTATOS: Same objections.

18 BY THE WITNESS:

19 A. At this particular time, the only  
20 information that we have is what you presented in  
21 the document in 4145.

22 BY MR. MELAMED:

23 Q. And does that information show that this  
24 product shipped?

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1 A. It shows how much of the product was  
2 shipped during the month of July.

3 Q. So, your question "How did the SOMs not  
4 stop this order," does that question refer to the  
5 amount of the product that shipped in July?

6 MR. DIAMANTATOS: Objection; form, asked and  
7 answered, foundation.

8 BY THE WITNESS:

9 A. My -- what I'm trying to -- again, I'm  
10 trying to figure out. There is two different  
11 things here. What potentially could happen is that  
12 SOMs knew of this new award and therefore it was  
13 built in the number and they saw the order come in  
14 from AmerisourceBergen to support it and shipped  
15 it.

16 There is other component where I'm  
17 dealing in the previous piece where demand/supply,  
18 so our production team is -- it appears like it  
19 caught them off guard that, oh, shoot, we have this  
20 award. We don't have this built into our forecast.

21 So, I'm kind of dealing with two  
22 different levels here that potentially what could  
23 happen is, all right, SOMs knew it, had it  
24 uploaded, had this in and knew. However, my

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1 forecast team didn't and now I need to have that  
2 conversation with -- potential conversation with  
3 Walgreens saying we're going to have to wait  
4 another 30 days.

5 BY MR. MELAMED:

6 Q. Regardless of whether there was a  
7 justification for this that SOMs knew, is it your  
8 understanding looking at this e-mail that this  
9 order shipped?

10 MR. DIAMANTATOS: Objection; form, asked and  
11 answered.

12 BY THE WITNESS:

13 A. I would have to see the POs to  
14 understand if this order was tied to -- tied to the  
15 AmerisourceBergen's purchase order for -- for this.

16 BY MR. MELAMED:

17 Q. I'm handing you what's been marked  
18 Exhibit 17.

19 (WHEREUPON, a certain document was  
20 marked as Allergan-Dorsey Exhibit  
21 No. 17: 7/23/15 e-mail string;  
22 Acquired\_Actavis\_00254149.)

23 BY MR. MELAMED:

24 Q. You might want to keep 16 out next to

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1 you just for the moment. Exhibit 17 is an e-mail  
2 string most recent in time from Michael Dorsey to  
3 Violet Saakyan, July 23, 2015, subject, "Re  
4 hydrocodone/ibuprofen - how did ABC orders got  
5 through our ordering/SOMs system." Single --  
6 single-page document at Acquired\_Actavis\_00254149.

7 If you turn to the order information in  
8 Exhibit 16, which we were just looking at before  
9 this document, and it's on page ending in 145, and  
10 then you look at the order Ms. Saakyan is asking  
11 about in Exhibit 17, those are the same orders,  
12 correct?

13 MR. DIAMANTATOS: Objection; foundation.

14 BY THE WITNESS:

15 A. It appears they are the same NDC,  
16 product description, product -- or contract entity  
17 as well as the months and the units are matching  
18 up.

19 BY MR. MELAMED:

20 Q. Okay. And so turning to Exhibit 17 now,  
21 Ms. Saakyan sends an e-mail to VMI/SOMs team. Do  
22 you know what VMI stands for?

23 A. No. I'm just...

24 Q. Okay. And then she asks, "Can you

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1 please let me know how did ABC orders got through  
2 our ordering/SOMs system in July."

3 A. Okay.

4 Q. Do you see that?

5 A. Yes.

6 Q. And you write, "You go girl" in  
7 response.

8 Do you see that?

9 A. Yes.

10 Q. Do you know whether Ms. Saakyan ever  
11 received a response to her inquiry?

12 MR. DIAMANTATOS: Objection; form, foundation,  
13 calls for speculation.

14 MR. SCHOCK: Object to form.

15 BY THE WITNESS:

16 A. No, at this -- I don't know if she did  
17 or not.

18 MR. MELAMED: You can put that aside or both  
19 of those aside.

20 MR. DIAMANTATOS: Counsel, we have been on the  
21 hour for close to two hours. Just when you get a  
22 chance, if we could take a break soon, that would  
23 be great.

24 MR. MELAMED: Sure. We can go off the record.

1 THE VIDEOGRAPHER: We are off the record at  
 2 3:01 p.m.  
 3 (WHEREUPON, a recess was had  
 4 from 3:01 to 3:14 p.m.)  
 5 THE VIDEOGRAPHER: We are back on the record  
 6 at 3:14 p.m.  
 7 BY MR. MELAMED:  
 8 Q. I have just handed you what's marked  
 9 Exhibit 18.  
 10 (WHEREUPON, a certain document was  
 11 marked as Allergan-Dorsey Exhibit  
 12 No. 18: 10/5/15 e-mail string;  
 13 Acquired\_Actavis\_00492349 -  
 14 00492350.)  
 15 BY MR. MELAMED:  
 16 Q. It's an e-mail string, most recent in  
 17 time from Jennifer Estes at Harvard Drug Group to  
 18 Michael Dorsey, from October 5, 2015, subject, "FW:  
 19 Hydro/APAP - adjusted forecast please." It's  
 20 two-page e-mail string starting at  
 21 Acquired\_Actavis\_00492349 and going through to 50.  
 22 So, going back to the -- actually, start  
 23 at the beginning. Do you recognize this e-mail  
 24 exchange?

1 A. Yes.  
 2 Q. And this was -- these numbers were --  
 3 let me withdraw that.  
 4 These numbers, they're forecasted for  
 5 hydrocodone/APAP that they were -- that Jennifer  
 6 Estes provided to you were used by the suspicious  
 7 order monitoring group to help establish suspicious  
 8 order monitoring levels for Harvard Drug Group, is  
 9 that right?  
 10 MR. DIAMANTATOS: Objection; form, foundation,  
 11 calls for speculation.  
 12 BY THE WITNESS:  
 13 A. I don't know what -- I guess what they  
 14 were used for. It looks like there is a -- there  
 15 is a request to find out what, you know, like I  
 16 said, the selling more than what they anticipated,  
 17 really digging into it, catching, you know, and our  
 18 SOMs folks are probably asking, all right, we need  
 19 to know what's going on here. So, that's really  
 20 what this inquiry is about and then their reply to  
 21 that.  
 22 BY MR. MELAMED:  
 23 Q. Do you have any understanding of how the  
 24 Actavis SOMs group made use of these numbers?

1 A. I guess as presented to me. I don't --  
 2 it doesn't strike anything from current memory, but  
 3 it appears I was part of it.  
 4 Q. So, in the first e-mail, which starts at  
 5 the very bottom of 349 and continues on to 350,  
 6 it's from you, it's on October 2, to Trevor Eaton  
 7 and Ryan Derengowski.  
 8 And to them you write, "Looks like you  
 9 have been selling more than you anticipated, I'll  
 10 need an update forecast for production planning and  
 11 for my SOMs folks. This will help with the new  
 12 order in-house."  
 13 Do you see that?  
 14 A. Yes.  
 15 Q. And the drug you're referring to there  
 16 is reflected in the subject line, right?  
 17 A. I would believe so, correct.  
 18 Q. So, and that's hydrocodone with APAP,  
 19 correct?  
 20 A. Correct.  
 21 Q. And e-mail -- you receive an e-mail back  
 22 from Jennifer Estes which provides Harvard Drug  
 23 Group's forecast for hydrocodone with APAP.  
 24 Do you see that?

1 A. No, I'm not understanding -- I don't  
 2 know, you know, what -- what they did with them and  
 3 how their -- their determination once they received  
 4 them.  
 5 BY MR. MELAMED:  
 6 Q. And Jennifer Estes' response reflects an  
 7 updated forecast based on increased sales from  
 8 where they had been before, is that right?  
 9 A. What I --  
 10 MR. DIAMANTATOS: Objection. Sorry.  
 11 Objection to form. Go ahead.  
 12 BY THE WITNESS:  
 13 A. Yeah, what I don't know is what's --  
 14 what consisted of their -- their demand for 2015  
 15 versus '16. Was that in anticipation because  
 16 this -- these guys were -- yeah.  
 17 Yeah, I don't know what -- if it's -- if  
 18 it was to their overall book of business or what  
 19 they're comparing here. I guess, when I'm looking  
 20 at it, I'm just not -- I don't know the numbers and  
 21 what they truly represent.  
 22 BY MR. MELAMED:  
 23 Q. But the reason that you initiated this  
 24 communication is because Harvard Drug Group had



1 been selling more than anticipated, right?

2 A. Correct.

3 Q. Did you investigate the reason for their  
4 increased sales?

5 MR. DIAMANTATOS: Objection; form.

6 BY THE WITNESS:

7 A. I personally, my involvement is probably  
8 spelled out here pretty clearly. I was reaching  
9 out to them, what's your rationale, what's your  
10 information, again more of a discovery, and then  
11 forwarding on this information to the internal  
12 team.

13 BY MR. MELAMED:

14 Q. Okay. So, because your participation is  
15 reflected in this document, are you saying that it  
16 didn't go beyond what's reflected in this document?

17 A. What I'm saying is past this document I  
18 don't know what -- where it went after this.

19 Q. Did you personally conduct any further  
20 inquiry with Harvard Drug Group about the reason  
21 for their increased sales of hydrocodone/APAP?

22 MR. DIAMANTATOS: Objection; form.

23 BY THE WITNESS:

24 A. Best of my recollection, I don't know

1 what the next steps were or if I was called upon to  
2 seek further information.

3 BY MR. MELAMED:

4 Q. Just to be clear. You don't recall  
5 whether you were asked to seek additional  
6 information, is that right?

7 A. Correct.

8 Q. And when you're saying "asked," you are  
9 referring to somebody from Actavis asking you, you  
10 don't know whether you -- whether anybody at  
11 Actavis asked you to seek further information?

12 MR. DIAMANTATOS: Objection; form.

13 BY THE WITNESS:

14 A. At this time what company. It would  
15 have been Actavis.

16 Yes, I -- in essence, yes, somebody  
17 within -- based upon my best recollection, would  
18 have been coming from Actavis seeking additional  
19 information.

20 BY MR. MELAMED:

21 Q. Okay. And you don't recall whether or  
22 not anybody from Actavis asked for additional  
23 information about the reason for the increased  
24 sales by Harvard Drug Group of hydrocodone/APAP?

1 MR. DIAMANTATOS: Objection; form, foundation,  
2 asked and answered.

3 BY THE WITNESS:

4 A. At this particular, I don't know if  
5 there was any further steps or requests for any  
6 additional information.

7 BY MR. MELAMED:

8 Q. Do you recall -- I may have asked this.  
9 Apologies.

10 Do you recall whether you made any such  
11 inquiries of Harvard Drug Group?

12 MR. DIAMANTATOS: Objection; form, asked and  
13 answered.

14 BY THE WITNESS:

15 A. I don't recall.

16 BY MR. MELAMED:

17 Q. I'm going to hand you what's been  
18 previously marked as Exhibit 14 for the Clarke  
19 deposition. Just for the record you will see that  
20 at the bottom.

21 And for the record -- the Bates stamp is  
22 cut off. I'm sorry. It is an e-mail and  
23 attachment, the e-mail string and attachment.

24 Most recent e-mail in time is Michael

1 Clarke to Nancy Baran and John LaRocca, cc'ing  
2 Michael Perfetto, Chris Young, Jason Chung John  
3 Kaldes, Rachelle Galante, and Doug Plassche, sent  
4 September 25, 2012 at 7:13 a.m. Subject is "Re:  
5 2007 letter."

6 There is an attachment which says,  
7 "Scanned from a xerox multifunction device001.pdf,"  
8 and the e-mail is from Michael Clarke and it says,  
9 "Thanks, Nancy."

10 I just want to draw your attention to  
11 the attachment which starts on the third page of  
12 this exhibit. If you could take a minute or two to  
13 read over this letter.

14 And I'm not going to ask you about any  
15 specifics right now. Just generally so you're  
16 familiar with what it's saying.

17 Do you recall whether you have seen this  
18 letter before?

19 A. Best of my recollection, no.

20 Q. Do you recall ever having discussed this  
21 letter, the contents of this letter, with anybody  
22 at Actavis before?

23 A. No, I don't recall.

24 MR. MELAMED: Let's go off the record, please.

1 THE VIDEOGRAPHER: We're off the record at  
 2 3:25 p.m.  
 3 (WHEREUPON, a recess was had  
 4 from 3:25 to 3:29 p.m.)  
 5 THE VIDEOGRAPHER: We are back on the record  
 6 at 3:29 p.m.  
 7 EXAMINATION  
 8 BY MR. KIEFFER:  
 9 Q. Good afternoon, Mr. Dorsey.  
 10 A. Good afternoon.  
 11 Q. My name is Jon Kieffer. I represent the  
 12 Teva Plaintiffs in this case, and I have a few  
 13 questions for you. Okay?  
 14 A. Okay.  
 15 Q. You understand you're still under oath?  
 16 A. Yes.  
 17 Q. Okay. And if you would do me a favor, I  
 18 know we are getting well into the day, if you could  
 19 try to keep your voice up.  
 20 A. Okay.  
 21 Q. There is a vent that blows over here.  
 22 A. Okay.  
 23 Q. I'm hoping your testimony will come  
 24 through just fine on the audio.

1 BY THE WITNESS:  
 2 A. Yeah, Godfrey. Thank you.  
 3 BY MR. KIEFFER:  
 4 Q. Are you paying the fees of any of those  
 5 lawyers or law firms?  
 6 A. No, I'm not.  
 7 Q. Who is paying the fees of these three  
 8 law firms?  
 9 MR. DIAMANTATOS: Objection; foundation.  
 10 BY THE WITNESS:  
 11 A. My understanding is that it is Teva.  
 12 BY MR. KIEFFER:  
 13 Q. Your employer?  
 14 A. Yes.  
 15 Q. Okay. And do you have personal counsel  
 16 in this matter because you have some concern that  
 17 you might have some sort of personal legal  
 18 exposure?  
 19 MR. DIAMANTATOS: Objection.  
 20 BY THE WITNESS:  
 21 A. No.  
 22 BY MR. KIEFFER:  
 23 Q. Why is it you have personal counsel  
 24 representing you individually?

1 A. Okay.  
 2 Q. But it's easier for all of us to hear  
 3 you if you can try to keep your voice up. Okay?  
 4 A. You bet.  
 5 Q. I'm going to do my best to not replow  
 6 ground that Mr. Melamed covered.  
 7 A. Okay.  
 8 Q. But inevitably there may be a little bit  
 9 of duplication because there are some of the  
 10 same -- a few of the same exhibits I want to ask  
 11 you about. Okay?  
 12 A. Sure.  
 13 Q. All right. To be clear, you are  
 14 represented here today by three different law  
 15 firms, is that correct?  
 16 A. Yes.  
 17 Q. Okay. Morgan Lewis, Kirkland & Ellis,  
 18 and then, as I understand it, your own personal  
 19 counsel?  
 20 A. Yes.  
 21 Q. Okay. And who is your personal counsel?  
 22 A. Brian.  
 23 Q. Okay. And where is Brian from?  
 24 MR. SPAHN: Godfrey Kahn.

1 MR. DIAMANTATOS: Objection.  
 2 THE WITNESS: So, do I -- I mean, is there --  
 3 you're objecting --  
 4 BY MR. KIEFFER:  
 5 Q. I don't want to know about any  
 6 conversations between counsel.  
 7 A. Yeah.  
 8 Q. I just want to know why it is you have  
 9 personal counsel representing you individually.  
 10 A. This is not an everyday event. So, I'm  
 11 not -- I don't do this every day so I'm just --  
 12 it's nice to have someone you can ask questions and  
 13 bounce things off of.  
 14 Q. Okay. And is that something that you  
 15 asked for?  
 16 A. Yes.  
 17 Q. I'm sorry. Yes?  
 18 A. Yes. Sorry.  
 19 Q. You are here today voluntarily, by that  
 20 I mean you were not served with a subpoena  
 21 compelling you to be here, is that right?  
 22 A. I -- I don't know how I --  
 23 Q. Somebody asked you?  
 24 A. How did I get here. Somebody asked me,

1 yes.  
 2 Q. Your employer or somebody on your  
 3 behalf, a lawyer, requested you to come and give  
 4 testimony today?  
 5 A. I believe so, yes.  
 6 Q. And you complied?  
 7 A. Yes.  
 8 Q. Okay. The trial of this matter is set  
 9 in Federal Court in Ohio. You understand that your  
 10 testimony is being videotaped today in the event we  
 11 need to play part or all of your testimony for the  
 12 jury?  
 13 A. Yes.  
 14 Q. If you were asked by your employer or by  
 15 their counsel to come and appear live and testify  
 16 before the jury in this case, will you do your best  
 17 to honor that request?  
 18 A. I will do my best.  
 19 Q. And the reason I ask you that, if you're  
 20 not present at trial and the jury has to rely on  
 21 the videotape instead of your live testimony, I  
 22 want the jury to understand --  
 23 A. Okay.  
 24 Q. -- it's not because of any failure on

1 the part of the Plaintiffs to bring you or to ask  
 2 you to come. Okay?  
 3 A. Okay.  
 4 MR. DIAMANTATOS: Objection; form to the  
 5 extent that statement calls for a legal conclusion.  
 6 BY MR. KIEFFER:  
 7 Q. You previously worked for Actavis. You  
 8 now work for Teva, right?  
 9 A. Correct.  
 10 Q. Did you become an employee of Teva when  
 11 Teva acquired Actavis?  
 12 A. Yes.  
 13 Q. Your current title is director of  
 14 national accounts for Teva, correct?  
 15 A. Yes.  
 16 Q. Are you the only director of national  
 17 accounts for Teva or are there multiple folks with  
 18 your same title?  
 19 A. Multiple folks.  
 20 Q. About how many?  
 21 A. Four, four others. So, five in total.  
 22 Q. Five total?  
 23 A. Yeah.  
 24 Q. Including you?

1 A. Yes.  
 2 Q. Okay. And I think -- I think it's  
 3 probably self-evident, but I need to ask.  
 4 As director of national accounts, you  
 5 are in charge of helping to sell Teva products in  
 6 the United States. True?  
 7 A. Yes. Our portfolio of products in  
 8 the -- in the United States.  
 9 Q. Do you handle any sales internationally?  
 10 A. Exporting, no.  
 11 Q. Okay. National accounts at Teva  
 12 include, for example, large drug wholesalers?  
 13 MR. DIAMANTATOS: Objection; form.  
 14 BY THE WITNESS:  
 15 A. Myself currently, no.  
 16 BY MR. KIEFFER:  
 17 Q. Okay. How about in the past?  
 18 MR. DIAMANTATOS: Same objection.  
 19 BY THE WITNESS:  
 20 A. In the past I have, yes.  
 21 BY MR. KIEFFER:  
 22 Q. For example, companies like  
 23 AmerisourceBergen, who goes by the acronym ABC  
 24 sometimes?

1 A. In the past, yes.  
 2 Q. How about Cardinal?  
 3 A. No.  
 4 Q. Okay. McKesson?  
 5 A. No as well.  
 6 Q. Cardinal and McKesson, are those  
 7 accounts of Teva's, just not accounts of yours?  
 8 A. Yes. Because that would be a --  
 9 Q. Okay. Walgreens?  
 10 A. That would be mine.  
 11 Q. And is currently yours as well, right?  
 12 A. Yes.  
 13 Q. CVS?  
 14 A. At one point in time.  
 15 Q. Okay. How about now?  
 16 A. No.  
 17 Q. Are there other large national accounts,  
 18 wholesalers or otherwise, that might be relatively  
 19 well known to the average man or woman on the  
 20 street?  
 21 MR. DIAMANTATOS: Objection; form.  
 22 BY MR. KIEFFER:  
 23 Q. For example, we mentioned Walgreens,  
 24 CVS. Any others?

1 MR. DIAMANTATOS: Objection; form.  
 2 BY THE WITNESS:  
 3 A. Any others of what? I'm sorry. I just  
 4 want to --  
 5 BY MR. KIEFFER:  
 6 Q. Any other large national accounts that  
 7 you are in charge of --  
 8 A. Oh.  
 9 Q. -- now or have been in the past.  
 10 MR. DIAMANTATOS: Objection. Sorry.  
 11 Objection; form. Go ahead.  
 12 BY THE WITNESS:  
 13 A. No, none I can think of.  
 14 BY MR. KIEFFER:  
 15 Q. The term "national accounts" as Teva  
 16 uses it would also include what is sometimes  
 17 referred to as wholesale buying groups?  
 18 MR. DIAMANTATOS: Objection; form, foundation.  
 19 BY THE WITNESS:  
 20 A. I don't -- I'm not sure of the question.  
 21 What Teva -- can you just one more time?  
 22 BY MR. KIEFFER:  
 23 Q. Let me ask it a little bit differently.  
 24 Okay.

1 A. Yes.  
 2 Q. WBAD would be considered a customer of  
 3 Teva's, correct?  
 4 A. We have a contractual relationship with  
 5 them, yes.  
 6 Q. Let me ask you a couple questions just  
 7 about who Teva is.  
 8 MR. KIEFFER: Can you pull up what we have  
 9 identified as Document No. 1. Tell me if you need  
 10 the Bates number.  
 11 MR. GRIMM: If you have it.  
 12 MR. KIEFFER: It's Teva\_091348868 (sic).  
 13 BY MR. KIEFFER:  
 14 Q. Sir, let me hand you what we'll mark as  
 15 Exhibit No. 19.  
 16 (WHEREUPON, a certain document was  
 17 marked as Allergan-Dorsey Exhibit  
 18 No. 19: PowerPoint,  
 19 TEVA\_MDL\_A\_09134868.)  
 20 BY MR. KIEFFER:  
 21 Q. Sir, Exhibit 19 is a document that was  
 22 produced to us from Teva's files. I don't want to  
 23 spend much time on it, but the first page just  
 24 identifies the number under which it was produced

1 A. Yeah.  
 2 Q. There is an entity that shows up in  
 3 various documents that have been produced to us  
 4 from Teva's internal files that goes by the acronym  
 5 WBAD or W-B-A-D.  
 6 A. Oh.  
 7 Q. Do you know what I'm referring to?  
 8 A. Yes.  
 9 Q. What is WBAD?  
 10 A. Walgreens -- so, it's an acronym. So,  
 11 it's Walgreens Boots Alliance Development Company.  
 12 So, it is a negotiating arm, so like a group  
 13 purchase organization, negotiated arm that's in  
 14 Bern and helps negotiate contracts on behalf of  
 15 AmerisourceBergen, Walgreens and Econdisc, locally  
 16 or Econdisc here in the States.  
 17 Q. Just to be clear on the name. It's  
 18 Walgreens Boots Alliance Development?  
 19 A. Yes.  
 20 Q. Okay. Based in Bern, Switzerland?  
 21 A. Yes.  
 22 Q. And it is a buying group that helps  
 23 negotiate purchases of pharmaceuticals from Teva  
 24 for Walgreens, AmerisourceBergen and others?

1 to us. It is a packet of materials. The first  
 2 page states, "Teva - World's Largest Medicine  
 3 Cabinet."  
 4 Do you see that?  
 5 A. Yes.  
 6 Q. Have you seen occasions in your  
 7 employment at Teva where in materials like this or  
 8 otherwise Teva has referred to itself as the  
 9 "world's largest medicine cabinet"?  
 10 A. Not enough that it rings -- it's not  
 11 like a tag line, so not enough.  
 12 Q. Have you heard it before?  
 13 A. It's not ringing a bell right now.  
 14 Q. Not at all?  
 15 A. No.  
 16 Q. Teva is a company based in Israel,  
 17 correct?  
 18 A. Correct.  
 19 MR. DIAMANTATOS: Objection; foundation. Go  
 20 ahead.  
 21 BY MR. KIEFFER:  
 22 Q. What interaction do you have in the  
 23 course of your job with any Teva organization based  
 24 in Israel?

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1 A. Directly nothing, none.  
 2 Q. Indirectly?  
 3 A. Just none. I mean, I guess no  
 4 interaction at all I guess I should say.  
 5 Q. You personally?  
 6 A. Correct.  
 7 Q. Okay. Teva is currently the world's  
 8 largest manufacturer -- manufacturer of generic  
 9 pharmaceuticals, correct?  
 10 MR. DIAMANTATOS: Objection; foundation.  
 11 BY THE WITNESS:  
 12 A. I -- from what I've read, it appears  
 13 that way, yes.  
 14 BY MR. KIEFFER:  
 15 Q. Okay. Teva is currently the largest  
 16 manufacturer of generic pharmaceuticals in the  
 17 United States as well. Also true?  
 18 MR. DIAMANTATOS: Objection; foundation.  
 19 BY THE WITNESS:  
 20 A. I think depending upon -- again, I've  
 21 not run it, but what I've seen would indicate that,  
 22 yes.  
 23 BY MR. KIEFFER:  
 24 Q. All right. In the prescription opioid

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1 market, Teva is a substantial player. True?  
 2 MR. DIAMANTATOS: Objection; form, vague.  
 3 BY THE WITNESS:  
 4 A. I don't know what substantial, how they  
 5 rank.  
 6 BY MR. KIEFFER:  
 7 Q. Do you know how they rank?  
 8 A. No, I do not.  
 9 Q. Any idea at all?  
 10 A. None at all.  
 11 Q. In the course of your work as a director  
 12 of national accounts for Teva, do you ever pay  
 13 attention to where Teva's market share is in terms  
 14 of other competing companies in the United States?  
 15 MR. DIAMANTATOS: Objection; form.  
 16 BY THE WITNESS:  
 17 A. I don't know if you'd say "pay  
 18 attention." Have I noticed? Yeah.  
 19 BY MR. KIEFFER:  
 20 Q. And what do you understand Teva's market  
 21 share to be here in the U.S.?  
 22 MR. DIAMANTATOS: Objection; form, foundation.  
 23 BY THE WITNESS:  
 24 A. Oh, I -- I don't know what overall it

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1 is.  
 2 BY MR. KIEFFER:  
 3 Q. I'm sorry?  
 4 A. I don't know what the I guess the  
 5 overall, what does Teva represent with all the  
 6 products.  
 7 Q. You don't?  
 8 A. No.  
 9 Q. Do you have any idea where Teva shakes  
 10 out in terms of its competition in terms of the  
 11 prescription opioid market in the United States?  
 12 MR. DIAMANTATOS: Objection; form, foundation,  
 13 asked and answered.  
 14 BY THE WITNESS:  
 15 A. No, I do not.  
 16 BY MR. KIEFFER:  
 17 Q. Do you know whether Teva is the largest  
 18 manufacturer of generic opioids sold in the U.S.?  
 19 MR. DIAMANTATOS: Objection; form, foundation,  
 20 asked and answered.  
 21 BY THE WITNESS:  
 22 A. No, I do not.  
 23 BY MR. KIEFFER:  
 24 Q. Are you aware of the fact that the vast

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1 majority of the U.S. opioid market overall is  
 2 generic?  
 3 MR. DIAMANTATOS: Objection; form, foundation.  
 4 BY MR. KIEFFER:  
 5 Q. Over 90%?  
 6 MR. DIAMANTATOS: Objection; form, foundation.  
 7 Go ahead.  
 8 BY THE WITNESS:  
 9 A. No, I do not.  
 10 BY MR. KIEFFER:  
 11 Q. Today is the first time you've heard  
 12 that?  
 13 A. Yes.  
 14 Q. Your position in your -- let me just  
 15 back up. Strike that.  
 16 Your employment file was marked early in  
 17 the day today. You were shown and asked about just  
 18 a few parts of it. Do you recall that?  
 19 A. Um-hmm.  
 20 Q. Yes?  
 21 A. Maybe.  
 22 Q. It's Exhibit 2. It's a thick document.  
 23 A. Oh. Like the initial signing papers,  
 24 right, or something?

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1 Q. Yeah, you were given parts --  
 2 A. Yes. Oh, new employment data form.  
 3 Q. I will give you that.  
 4 (WHEREUPON, a certain document was  
 5 marked Allergan-Dorsey Exhibit  
 6 No. 20: Personnel File;  
 7 ALLERGAN\_MDL\_SUPP\_00001122 -  
 8 0000127.)  
 9 MR. DIAMANTATOS: Do you want him to refer to  
 10 Exhibit 2 or no?  
 11 MR. KIEFFER: Sorry?  
 12 MR. DIAMANTATOS: The personnel file.  
 13 MR. KIEFFER: That's I think the whole thing.  
 14 I think. I was sitting down here. I'm not sure I  
 15 realized it. The prior exhibit was just a portion  
 16 of it.  
 17 MR. DIAMANTATOS: Okay.  
 18 BY MR. KIEFFER:  
 19 Q. Do me a favor, if you would, sir. I  
 20 just want to ask you about a few things in here.  
 21 Okay?  
 22 A. Sure.  
 23 Q. I'm not going to spend a lot of time.  
 24 There is a Bates number, what we call a

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1 Bates number in the lower right-hand corner of that  
 2 document. I'm not going to read all the prefix,  
 3 but they all start out with Allergan and the first  
 4 page of this document ends in 1122.  
 5 Do you see that?  
 6 A. Yes.  
 7 Q. Turn to page 1139, if you would.  
 8 Page 1139 is -- begins the offer letter  
 9 that you got when you were hired by Actavis,  
 10 correct?  
 11 A. That's what it, yes, that's what it  
 12 appears to be.  
 13 Q. Let me focus just briefly on  
 14 subparagraph C in the middle of the page. That  
 15 indicates you will be eligible to participate in  
 16 the company's sales plan, the plan, for fiscal year  
 17 2007, and it goes on to describe that plan as  
 18 providing an incentive to sales staff.  
 19 Do you see that?  
 20 A. Yes.  
 21 Q. And there are some criteria metrics that  
 22 are identified there upon which decisions are made  
 23 as to whether you receive this incentive  
 24 compensation, correct?

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1 A. That's how it reads, yes.  
 2 Q. Okay. And you have on various occasions  
 3 received incentive compensation of, for example,  
 4 \$30,000 semiannually, \$60,000 annually?  
 5 MR. DIAMANTATOS: Objection; form.  
 6 BY THE WITNESS:  
 7 A. That's -- that's a cap.  
 8 BY MR. KIEFFER:  
 9 Q. No, I understand that.  
 10 A. Okay. I'm sorry. Then I misunderstood  
 11 your question.  
 12 Q. I understand that. And there are  
 13 examples, there are documents further in this file  
 14 we can look at if we need to --  
 15 A. Okay.  
 16 Q. -- that show periods and years when you  
 17 received incentive compensation.  
 18 A. Okay.  
 19 Q. I was just trying to move it along a  
 20 little bit and find out if you recall.  
 21 You recall receiving incentive  
 22 compensation --  
 23 A. Oh.  
 24 Q. -- at various points in time --

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1 A. Okay.  
 2 Q. -- to the tune of 30,000 semiannually  
 3 and 60,000 annually?  
 4 A. Everything up to that last part. I  
 5 don't know as far as the dollar amount. But, yes,  
 6 I think that's part of it. It's an HR, HR thing I  
 7 presume that you have to have a -- here's -- have  
 8 it laid out.  
 9 So, I don't -- the dollar amount may  
 10 have changed over the years, but there is -- I  
 11 believe they spell it out.  
 12 Q. Okay. You recall getting it?  
 13 MR. DIAMANTATOS: Objection; form, vague.  
 14 BY THE WITNESS:  
 15 A. If I were to see it again, yes. It's,  
 16 again, a little foggy just because it's '17, yeah.  
 17 BY MR. KIEFFER:  
 18 Q. We can take a look here in a minute if  
 19 we need to.  
 20 A. Okay.  
 21 Q. Take a look at page 1181, if you would.  
 22 Page 1181 at the top identifies your job  
 23 title, correct, and your department as sales?  
 24 A. Yes.



1 Q. The job summary there at the bottom of  
2 what is blown up on the screen states it's a "Sales  
3 position - selling to all sectors of the generic  
4 drug industry." Correct?

5 A. That's what it says, yes.

6 Q. And that's your understanding of the job  
7 that you have?

8 A. I wouldn't say that anymore, as far as  
9 all sectors. I mean, that's an umbrella, I think  
10 an umbrella statement for -- but I don't think it  
11 would really apply.

12 Q. Okay. What sectors of the generic drug  
13 industry do you not sell to?

14 A. I personally only sell to -- well, what  
15 I not would be some of the I guess true -- like a  
16 hospital GPO, anything that's non-commercial in  
17 respect. Those are the two I guess that come to  
18 mind right away.

19 Q. Okay. Look a little further down the  
20 page, if you would. There is a heading that says  
21 "Essential Job Results," and then three things are  
22 listed with a percentage of time to the left of  
23 them. Do you see those?

24 A. Yes.

1 on this document, as being the majority of the time  
2 demanded by your job, is that correct?

3 A. On paper, yes.

4 Q. In your very early testimony today, you  
5 were asked about your office address, and I have to  
6 apologize. I was sitting down the table and the  
7 blower was going and your soft was voice.

8 A. Sorry.

9 Q. I'm not sure I completely heard you.

10 Do you work out of a home office?

11 A. I work out of my house, yes.

12 Q. Out of your house?

13 A. Yes.

14 Q. And then did I also hear you say when  
15 you're not working out of your house, you're on the  
16 road?

17 A. That would be correct.

18 Q. Are you on the road a substantial amount  
19 of time?

20 A. Not anymore.

21 Q. Okay. Why don't you briefly describe  
22 for us upon hiring with Actavis until today. All  
23 right?

24 A. Okay.

1 Q. It says, "70% selling, 20% analysis of  
2 sales data, and 10% attending meetings and trade  
3 shows."

4 Do you see what I just read?

5 A. Yes, I do.

6 Q. Is that generally accurate insofar as  
7 you're concerned?

8 MR. DIAMANTATOS: Objection; form.

9 BY THE WITNESS:

10 A. Generally accurate as far as -- I mean,  
11 this appears to be a document, an HR document like  
12 describing this position. So, I guess I'm not  
13 understanding.

14 If that -- if this is the actual  
15 document that -- that, you know, upon my hiring,  
16 then, yes, they got to put down numbers, I guess,  
17 to the -- some of these facets of what the job  
18 would be entitled.

19 BY MR. KIEFFER:

20 Q. And you do all three of those things,  
21 selling, analysis of sales data, and attending  
22 meetings and trade shows?

23 A. Amongst other things, yes.

24 Q. Okay. Selling is identified, at least

1 Q. The extent to which your job required  
2 you to travel and presumably call on clients versus  
3 do other things. Okay?

4 A. I guess at a high level, the -- if  
5 you're asking how -- so, I just want to make sure.

6 You're asking how the travel, my  
7 percentage of travel has changed over from  
8 beginning to now?

9 Q. Sure. Yeah.

10 A. It's -- generally it's gone down.  
11 There's consolidation going on in the marketplace.

12 Q. About what percentage of your time do  
13 you travel now? Let's talk about calendar year  
14 2018.

15 A. I'd have to look at papers. But it's, I  
16 don't know, maybe under 20%.

17 Q. Under 20%?

18 A. Yeah.

19 Q. Okay. From the time you were hired at  
20 Actavis, what was the most you have ever traveled  
21 as a percentage of your time?

22 MR. DIAMANTATOS: Objection; form, vague.

23 BY THE WITNESS:

24 A. It's hard, I guess it's hard -- it's

1 just hard to look back. '18. I guess 18 years  
 2 back to '07. No, I'm not doing the math right. 12  
 3 years. 11 years.  
 4 I just know it was -- it had to have  
 5 been more based upon the accounts. I just don't  
 6 know to I guess what degree.  
 7 BY MR. KIEFFER:  
 8 Q. Fair enough. Was there a time when you  
 9 would estimate you were traveling 50% or more of  
 10 your time?  
 11 MR. DIAMANTATOS: Objection; form.  
 12 BY THE WITNESS:  
 13 A. Within the -- within Actavis  
 14 environment?  
 15 BY MR. KIEFFER:  
 16 Q. Actavis or Teva.  
 17 A. Oh, God. I don't know if I traveled  
 18 that much. I'm not sure if that's -- if that's  
 19 like the number to land on. But all I can say is  
 20 that it was more back then, it was more than it is  
 21 now.  
 22 Q. Okay. And currently your best estimate  
 23 is 20% or perhaps a bit less of your time is spent  
 24 traveling?

1 talked about.  
 2 BY MR. KIEFFER:  
 3 Q. Okay. In the client meetings, some of  
 4 the large national clients that you identified a  
 5 few minutes ago that you either currently have or  
 6 have had since you were hired at Actavis, would you  
 7 typically call on those clients on some kind of a  
 8 regular basis?  
 9 MR. DIAMANTATOS: Objection; form.  
 10 BY THE WITNESS:  
 11 A. I don't know if it was a regular. The  
 12 only basis would be, it's my philosophy, it's a  
 13 need basis.  
 14 BY MR. KIEFFER:  
 15 Q. I'm sorry. A need basis?  
 16 A. Need, yes.  
 17 Q. All right. But you would typically call  
 18 on them from time to time?  
 19 A. From time to time.  
 20 MR. DIAMANTATOS: Objection. Hold on.  
 21 THE WITNESS: Sorry.  
 22 MR. DIAMANTATOS: Objection; form. Go ahead.  
 23 BY MR. KIEFFER:  
 24 Q. Might not be pre-scheduled. Might not

1 MR. DIAMANTATOS: Objection; form, asked and  
 2 answered.  
 3 BY THE WITNESS:  
 4 A. Based upon just a quick thought process  
 5 in this environment, yes.  
 6 BY MR. KIEFFER:  
 7 Q. When you're traveling, what are you  
 8 doing? Give us an example. Calling on clients?  
 9 A. Yes.  
 10 Q. Okay. Fostering client relationships?  
 11 MR. DIAMANTATOS: Objection; form.  
 12 BY THE WITNESS:  
 13 A. It's a, you know -- you've been in the  
 14 industry for a while, as you know, you get -- you  
 15 know -- you know your customers and they know you.  
 16 But there is nothing beats being in  
 17 person and there is sometimes those conversations,  
 18 there is discussions that need to be, you know, in  
 19 person so that things can get accomplished as  
 20 opposed to a conference call where someone is doing  
 21 this (indicating) and they're not listening.  
 22 So, sometimes you need that face-to-face  
 23 to accomplish things. So, that would be part of it  
 24 or I guess would be industry-wide meetings that we

1 be at regular intervals. But typically you would  
 2 call on them from time to time?  
 3 MR. DIAMANTATOS: Objection; form.  
 4 BY THE WITNESS:  
 5 A. As a circumstance warranted it for us to  
 6 have a meeting if there's a reason, then I would.  
 7 I'm not going to waste their time. So, yes, we  
 8 would have a meeting.  
 9 BY MR. KIEFFER:  
 10 Q. All right. Moving along. Why don't  
 11 you, if you would, turn to page 1163 for me.  
 12 At the bottom, sir, of page 1163 there  
 13 is an e-mail. The subject is, "Fiscal Year 2012  
 14 First Half Sales Rep Payout - For Your Review and  
 15 Decision."  
 16 Do you see that?  
 17 A. Ending 11 -- I'm sorry. So, from Ban?  
 18 Q. Yes.  
 19 A. Yes.  
 20 Q. That's what it looks like to me.  
 21 A. Yes.  
 22 Q. All right. And there is a table there  
 23 and your name appears it looks like as the third  
 24 individual down, Mike Dorsey?

1 A. Yes.  
 2 Q. And it says, "Max Payout One-Half Year,"  
 3 and \$30,000 is the amount corresponding to that,  
 4 right?  
 5 A. Yes.  
 6 Q. Does that refresh your recollection that  
 7 at least at that point in time you received \$30,000  
 8 in incentive compensation?  
 9 MR. DIAMANTATOS: Objection; form.  
 10 BY THE WITNESS:  
 11 A. All it gives, it's a reminder based upon  
 12 this e-mail and, you know, for 2008 -- or 2012 that  
 13 that was the maximum amount that could be earned.  
 14 BY MR. KIEFFER:  
 15 Q. Okay. Turn, if you would, to page 1167  
 16 of that same document.  
 17 At the top of page 1167 there's an  
 18 e-mail dated February 22, 2012. The subject is  
 19 "Second Half Sales Rep Payout."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. And it has your name underneath that.  
 23 It indicates, "Second Half Payout (approved)," and  
 24 the amount there is \$32,400 in incentive

1 compensation, correct?  
 2 A. That's how it's written, yes.  
 3 Q. Okay. Does that refresh your  
 4 recollection that at least in the second half of  
 5 that period you received incentive compensation in  
 6 that amount?  
 7 MR. DIAMANTATOS: Objection; form. The  
 8 witness never said his memory was not -- was  
 9 exhausted. It's improper to phrase the question  
 10 that way, Counsel.  
 11 BY THE WITNESS:  
 12 A. I'm reading it right now, but it's not  
 13 something I remember, "Oh, yeah." I'm just reading  
 14 it now as if it's the first time.  
 15 BY MR. KIEFFER:  
 16 Q. Fair enough. I'm not try to make a  
 17 bigger deal out of it than it is. But you're not  
 18 disputing that you got this incentive  
 19 compensation --  
 20 MR. DIAMANTATOS: Objection; form.  
 21 BY MR. KIEFFER:  
 22 Q. -- that's documented in your personnel  
 23 file.  
 24 MR. DIAMANTATOS: Objection; form.

1 BY THE WITNESS:  
 2 A. Based upon how this is written in the  
 3 format in this document, it appears, then, yes, I  
 4 was approved for 32-4.  
 5 BY MR. KIEFFER:  
 6 Q. Okay. One of the bases upon which you  
 7 received this incentive compensation is sales that  
 8 are attributable to you actual versus budgeted,  
 9 correct?  
 10 A. I believe that's what we reviewed  
 11 earlier, yes.  
 12 Q. Turn to page 1171. The bottom half of  
 13 the page, there is an e-mail dated August 22, 2011.  
 14 The subject is "Sales Team Incentive Plan First  
 15 Half of 2011."  
 16 Do you see that?  
 17 A. Yes.  
 18 Q. And, again, beneath that is your name  
 19 with a payout indicated for you of \$28,800?  
 20 A. Yes, I see that.  
 21 Q. Do you have a memory of receiving that?  
 22 A. No, no, I do not.  
 23 Q. I take it you don't dispute that you  
 24 did, though?

1 A. Based upon -- I don't know the exact  
 2 amount, but based upon this, that's what it appears  
 3 I got paid out.  
 4 Q. Turn, if you would, to page 1184.  
 5 Actually, I'm sorry, 1183, the prior  
 6 page. That's a document the title of it is  
 7 "Actavis Per4ma."  
 8 Do you see that?  
 9 A. Yes.  
 10 Q. Your name is listed there at the top and  
 11 then the what's called the appraiser further down  
 12 is Mike Perfetto, VP sales and marketing, right?  
 13 A. Correct.  
 14 Q. And he's your boss, right?  
 15 A. At that time, yes, yes, he was.  
 16 Q. Did you say "was"?  
 17 A. Well, I'm looking at 2012.  
 18 Q. Your answer is a little more precise  
 19 than my question.  
 20 A. Sorry.  
 21 Q. Let me try again.  
 22 A. Sorry.  
 23 Q. Mr. Perfetto was your boss in 2012?  
 24 A. Yes.

1 Q. Is he still?  
 2 A. No.  
 3 Q. Okay. His title is listed as VP of  
 4 sales and marketing, right?  
 5 A. Yes.  
 6 Q. Now, you are -- I think it's been clear  
 7 through the day, but I want to make it clear on the  
 8 record now, you only deal with the generic side of  
 9 Teva's business. You do not deal with the branded  
 10 side. Am I correct about that?  
 11 A. That is correct.  
 12 Q. Okay. When you reported to  
 13 Mr. Perfetto, VP of sales and marketing, was he VP  
 14 of sales and marketing just for the generic side of  
 15 the business or also for the branded side?  
 16 A. We -- trying to think what the Actavis  
 17 itself. So, he was VP of sales and marketing on  
 18 the trade, like trade relations or the trade  
 19 component.  
 20 Q. Okay.  
 21 A. Does that make sense?  
 22 Q. You need to explain it.  
 23 A. So, trade is sales to the trade channel,  
 24 wholesalers, like, for instance, wholesalers and

1 retailers.  
 2 Q. Okay.  
 3 A. So, that's -- that was his -- that was  
 4 the role. So, we, you know -- we fell under -- we  
 5 fell under Mike.  
 6 Q. So, connecting the dots in what you just  
 7 said, Mr. Perfetto as VP of sales and marketing in  
 8 dealing with the trade channels, as you've said,  
 9 right?  
 10 A. Yes.  
 11 Q. Wholesalers and did you say retailers as  
 12 well?  
 13 A. Correct.  
 14 Q. So, that could include both generic  
 15 products and branded products?  
 16 MR. DIAMANTATOS: Objection; form, foundation.  
 17 BY THE WITNESS:  
 18 A. I don't know. I can't recall how much  
 19 we had on as far as brands, if any. It was  
 20 primarily a generic, a generic company. So, I'm  
 21 not -- it's not ringing up. I don't even know if  
 22 we had a brand again sales force.  
 23 I guess my day-to-day as I envision  
 24 Actavis was that it was generics Rx's, so

1 prescriptions, and then there was some  
 2 over-the-counters.  
 3 BY MR. KIEFFER:  
 4 Q. Have you ever heard of a product called  
 5 Kadian?  
 6 A. Yes.  
 7 Q. Kadian was a branded product, was it  
 8 not?  
 9 A. Yeah, I believe that may have been  
 10 the -- could it be acquired? Yes, it was one --  
 11 may have been the only product. I'm not quite  
 12 sure, but there was a brand product, my  
 13 understanding.  
 14 Q. A branded opioid product?  
 15 A. It was a branded opioid product, yes.  
 16 Q. Turn, if you would, to the next page,  
 17 1184.  
 18 And let me ask you a question, because I  
 19 don't want to bog us down in this. Is part of this  
 20 a self-evaluation or was this all performed by  
 21 Mr. Perfetto basically telling you what you were  
 22 expected to do and perhaps how you had done?  
 23 MR. DIAMANTATOS: Objection; form, foundation.  
 24 BY MR. KIEFFER:

1 Q. Or do you know?  
 2 A. I don't -- I don't. It may have -- I  
 3 don't know. I don't know if it's a joint or  
 4 single.  
 5 Q. Okay. Fair enough. Let me ask a more  
 6 specific question.  
 7 At the top of page 1184 in the first box  
 8 it says, "Objective No. 1."  
 9 Do you see that?  
 10 A. Yes.  
 11 Q. And there is a question, "What do you  
 12 need to accomplish this year?" And it appears the  
 13 answer is, "Achieve generics prescription sales  
 14 targets." Correct?  
 15 MR. DIAMANTATOS: Objection; form.  
 16 BY THE WITNESS:  
 17 A. Based upon how it's written, yes.  
 18 BY MR. KIEFFER:  
 19 Q. Okay. Direct sales target of 125 --  
 20 127.5 million including new products, right?  
 21 MR. DIAMANTATOS: Objection; form.  
 22 BY THE WITNESS:  
 23 A. Yes, that's how it's written.  
 24 BY MR. KIEFFER:

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1 Q. And it also states indirect of  
2 114 million includes new products, correct?  
3 A. Again, yes, how it's written, correct.  
4 Q. Any reason to dispute that the No. 1  
5 objective for you in that particular period, and  
6 that evaluation form is dated January of 2012, was  
7 to achieve the generic prescription sales targets  
8 that are identified there?  
9 MR. DIAMANTATOS: Objection; form.  
10 BY THE WITNESS:  
11 A. I don't know the ranking order as far as  
12 the order. It just happened to be the first one on  
13 the list.  
14 BY MR. KIEFFER:  
15 Q. If you look further down, there is an  
16 Objective 2 and an Objective 3 and an Objective 4  
17 and I guess on the next page an Objective 5.  
18 Right?  
19 A. Correct.  
20 Q. Okay. And the first one that is  
21 identified, we can agree, is to achieve the generic  
22 prescription sales targets, right?  
23 A. The first one listed, yes.  
24 Q. Okay.

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1 going directly to the customer. It's going -- the  
2 wholesaler is purchasing it and then it's being  
3 sold then to the end customer, the end retailer,  
4 yeah, end retailer.  
5 Q. And when you say "the end retailer,"  
6 this would be a retailer with a pharmacy that would  
7 then ultimately be dispensing the drug to a  
8 patient?  
9 MR. DIAMANTATOS: Objection; form, foundation.  
10 BY THE WITNESS:  
11 A. My -- yes, my understanding of as far as  
12 the indirect, there has to be either a contract  
13 from -- with us or a contract -- or with the  
14 wholesaler and the pharmacy has to have the DEA  
15 license.  
16 Again, I don't know what goes into the  
17 making. But, yes, it's a chargeback that we get a  
18 record of XYZ Pharmacy, you know, bought these --  
19 bought these portfolio products from Actavis.  
20 BY MR. KIEFFER:  
21 Q. Okay. I'm not sure we're communicating  
22 on this.  
23 A. Okay.  
24 Q. Let me ask it again. I'm just trying to

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1 A. I got it.  
2 Q. All right. Turn, if you would, to  
3 page 1206, still in the same document.  
4 At the top of page 1206 in the first box  
5 again, it states, Objective No. 1, "What do you  
6 need to accomplish this year?" Do you see that?  
7 A. Yes.  
8 Q. And, again, it states, "Achieve generic  
9 Rx sales targets," right?  
10 MR. DIAMANTATOS: Objection; form.  
11 BY THE WITNESS:  
12 A. It says -- yes, it's written. There is  
13 a number for -- for direct, yes.  
14 BY MR. KIEFFER:  
15 Q. Okay. There is a number for direct and  
16 a number for indirect, right?  
17 A. As it's stated, yes.  
18 Q. Briefly explain for us the difference  
19 between direct generic prescription drug sales and  
20 indirect generic prescription drug sales.  
21 A. So, direct would be, again, I always  
22 understand direct is purchases direct from -- from  
23 a customer. So, point A to point B.  
24 Indirect would be in essence it's not

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1 distinguish really for the benefit of our jury --  
2 A. Yep.  
3 Q. -- the difference between a direct  
4 generic prescription drug sale and an indirect one.  
5 So, let me tell you what I think the  
6 difference is, and I want you to tell me if I'm  
7 right or correct me. Fair enough?  
8 A. Perfect.  
9 Q. Okay.  
10 MR. DIAMANTATOS: Objection; form.  
11 BY MR. KIEFFER:  
12 Q. Is a direct generic prescription drug  
13 sale where Actavis previously, Teva now, sells a  
14 drug essentially to an endpoint pharmacy, Jones  
15 Pharmacy in Chicago, Illinois, where a customer can  
16 go in and get a prescription filled?  
17 MR. DIAMANTATOS: Objection; form.  
18 BY THE WITNESS:  
19 A. My -- maybe let me provide this. Again,  
20 again, I overuse it. Think of a -- pick out a  
21 national chain drug.  
22 BY MR. KIEFFER:  
23 Q. Okay.  
24 A. So, that would -- direct would be a sale

1 from Actavis, now Teva, to that national chain  
2 drugstore.

3 Q. CVS, for example?

4 A. For instance.

5 Q. Okay.

6 A. They have a -- they have their own  
7 distribution center.

8 Q. Okay.

9 A. They would buy it directly from us into  
10 their warehouse and then they would distribute  
11 that. Then the stores would pull from their own  
12 warehouse.

13 And then the indirect would be products  
14 that don't warrant or for whatever reason they are  
15 not bringing it into their own distribution center  
16 that these stores, for instance, in this case,  
17 simplify it, CVS, chooses to store down on the  
18 corner. It doesn't -- they checked. They don't  
19 have it in the warehouse. So, then they will buy  
20 it from the wholesaler. And that will be  
21 classified as an indirect.

22 Q. For example, an indirect sale would  
23 include things like sales of products from Teva to  
24 AmerisourceBergen?

1 comfortable with. Outside of that, I don't know if  
2 it goes upside down.

3 BY MR. KIEFFER:

4 Q. And for the sake of our record, WAC  
5 stands for what?

6 A. Wholesale acquisition cost.

7 Q. Turn to page 1214 if you would. This is  
8 a similar evaluation form. This one for 2010 it  
9 looks like. And at the top of the page, Objective  
10 No. 1, again states, "Achieve U.S. generic sales  
11 targets for fiscal year 2010."

12 Do you see that?

13 A. Yes.

14 Q. And it looks like the sales target  
15 identified there is \$477 million?

16 MR. DIAMANTATOS: Objection; form.

17 BY THE WITNESS:

18 A. Oh.

19 BY MR. KIEFFER:

20 Q. I'm sorry. \$477.5 million.

21 MR. DIAMANTATOS: Objection; form.

22 BY THE WITNESS:

23 A. Okay. So, based upon what, yeah, what's  
24 being read for the -- it looks like U.S. generic

1 MR. DIAMANTATOS: Objection; form.

2 BY THE WITNESS:

3 A. Where that -- my understanding, how --  
4 how that would be -- be categorized as an indirect  
5 would be because the business model of a wholesaler  
6 is different than -- than a self-contained of a  
7 CVS, in this example, that there would be in  
8 essence -- we know direct sales, but it wouldn't be  
9 captured. Direct sales go into ABC,  
10 AmerisourceBergen.

11 However, they would submit a chargeback  
12 once they sell it to John's Pharmacy, then there  
13 would be a chargeback. So, that would be counted  
14 as an indirect sale.

15 BY MR. KIEFFER:

16 Q. Is there only be a chargeback generated  
17 if the wholesaler sells it to their customer for  
18 less than they paid Teva for the product?

19 MR. DIAMANTATOS: Objection; form, foundation.

20 BY THE WITNESS:

21 A. That's not my -- I don't have  
22 100 percent clarity of it if that's -- there is a  
23 chargeback, anything that's less than WAC, there is  
24 a chargeback created. That part I'm pretty

1 sales target, yes, that's the number I see.

2 BY MR. KIEFFER:

3 Q. Okay. Is that your personal target that  
4 year?

5 A. I hope not. I don't know if it would  
6 have been that high.

7 Q. All right. Turn, if you would --

8 A. That's high.

9 Q. -- to page 1222. 1222 is a similar  
10 evaluation form for 2009. And, again, Objective  
11 No. 1 at the top of the page states, "Achieve sales  
12 budget/GP targets for fiscal year 2009." Correct?

13 A. Yes.

14 Q. What's GP stand for?

15 MR. DIAMANTATOS: Objection; form, foundation.

16 BY THE WITNESS:

17 A. Not 100 percent sure on this one.

18 BY MR. KIEFFER:

19 Q. Don't know?

20 A. Not 100 percent, yeah.

21 Q. What do you think it is?

22 MR. DIAMANTATOS: Objection; form, foundation.

23 BY THE WITNESS:

24 A. It's --



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1 MR. DIAMANTATOS: Asked and answered.  
 2 BY THE WITNESS:  
 3 A. I don't know.  
 4 MR. DIAMANTATOS: Go ahead.  
 5 BY THE WITNESS:  
 6 A. I -- I don't want to venture a guess for  
 7 it could be wrong.  
 8 BY MR. KIEFFER:  
 9 Q. The customers that you are responsible  
 10 for selling to, there are a portfolio of products  
 11 that Teva sells to those customers, correct?  
 12 MR. DIAMANTATOS: Objection; form.  
 13 BY THE WITNESS:  
 14 A. Could you say this one more time.  
 15 BY MR. KIEFFER:  
 16 Q. Yeah. The customers that you are  
 17 responsible for, there is a portfolio of products  
 18 that Teva offers to those customers, correct?  
 19 MR. DIAMANTATOS: Objection; form.  
 20 BY MR. KIEFFER:  
 21 Q. There's a product line?  
 22 MR. DIAMANTATOS: Objection; form.  
 23 BY THE WITNESS:  
 24 A. Based on my knowledge, yes, they're the

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1 of non-controls.  
 2 BY MR. KIEFFER:  
 3 Q. There's both?  
 4 A. We have both.  
 5 Q. The controlled substances are not a  
 6 minimal contributor to sales volume, are they?  
 7 MR. DIAMANTATOS: Objection; form, vague,  
 8 foundation.  
 9 BY THE WITNESS:  
 10 A. I don't have the -- as far as the  
 11 numbers ahead of me as far as what they -- what  
 12 those numbers are, what those sales dollars are and  
 13 what they mean.  
 14 BY MR. KIEFFER:  
 15 Q. No memory at all?  
 16 MR. DIAMANTATOS: Objection; form, foundation.  
 17 BY THE WITNESS:  
 18 A. Correct.  
 19 MR. DIAMANTATOS: Mischaracterizes the  
 20 witness' answer.  
 21 BY MR. KIEFFER:  
 22 Q. There are various tools that you and  
 23 others at Teva are able to use in order to try to  
 24 sell Teva's products, for example, discounts,

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1 accounts that I call on, I can -- I have a  
 2 portfolio of products that we -- that we  
 3 manufacture, yes.  
 4 BY MR. KIEFFER:  
 5 Q. And within that portfolio of products  
 6 are generic opioids, class IIs.  
 7 MR. DIAMANTATOS: Objection; form.  
 8 (Clarification requested by the  
 9 reporter.)  
 10 MR. KIEFFER: Class IIs.  
 11 MR. DIAMANTATOS: Objection; form.  
 12 BY THE WITNESS:  
 13 A. Yes, best of my knowledge, yes.  
 14 BY MR. KIEFFER:  
 15 Q. And generic opioids are not an  
 16 insignificant part of the portfolio of products  
 17 that Teva offers to its customers, correct?  
 18 MR. DIAMANTATOS: Objection; form, vague,  
 19 foundation.  
 20 BY THE WITNESS:  
 21 A. I'm not quite sure what you mean by  
 22 insignificant -- sorry. Tongue-tied.  
 23 I don't know. I mean, it's a portion,  
 24 but there is also -- there's a big portion as well

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1 rebates, things of that nature, correct?  
 2 MR. DIAMANTATOS: Objection; form.  
 3 BY THE WITNESS:  
 4 A. Just like -- well, it's a -- I don't  
 5 know if it's -- it's the market price. So, you're  
 6 working with the accounts to find an amenable price  
 7 point that works for both parties.  
 8 BY MR. KIEFFER:  
 9 Q. Right. But pricing is a component of  
 10 your sales strategy, correct? One way you can get  
 11 and keep an account is to offer a particular  
 12 product at a better price or on more favorable  
 13 financial terms than one of your competitors,  
 14 right?  
 15 MR. DIAMANTATOS: Objection; form.  
 16 BY THE WITNESS:  
 17 A. Best of my understanding, yes, that's  
 18 one, just one of the aspects.  
 19 BY MR. KIEFFER:  
 20 Q. You've had -- and if we end up with  
 21 enough time today we'll look at a couple of them,  
 22 but documents have been produced to us from Teva's  
 23 internal files in the form of things like e-mails  
 24 to you from customers asking if you are willing to

1 match some competitor's price bid on a particular  
 2 product.  
 3 You receive things like that from time  
 4 to time, correct?  
 5 MR. DIAMANTATOS: Objection; form, vague. Go  
 6 ahead and answer.  
 7 BY THE WITNESS:  
 8 A. Yes, from time to time.  
 9 BY MR. KIEFFER:  
 10 Q. Okay. What does it mean if a Teva  
 11 product has a 100 percent primary position?  
 12 MR. DIAMANTATOS: Objection; form, foundation.  
 13 BY THE WITNESS:  
 14 A. Can you be specific of which account?  
 15 BY MR. KIEFFER:  
 16 Q. I can in a moment.  
 17 A. Okay.  
 18 Q. Is there -- can you give us a general  
 19 description at all?  
 20 MR. DIAMANTATOS: Objection; form.  
 21 BY THE WITNESS:  
 22 A. Best of my understanding, without  
 23 knowing which -- which account that you're speaking  
 24 of, would be that their formulary choice is that

1 If it's 100 percent formulary, it's not  
 2 to say that -- that that's their -- that's their  
 3 No. 1 choice. That when the physician writes a  
 4 prescription, the patient brings it in and is  
 5 looking to have the -- have their medications  
 6 for -- to help them, that that's the number one  
 7 choice to be filled.  
 8 Now, is there another potentially,  
 9 within stores or warehouse, another product of the  
 10 same AB-rated? Yeah, potentially. But  
 11 100 percent, best of my knowledge, that's -- you're  
 12 getting as much as their formulary business.  
 13 BY MR. KIEFFER:  
 14 Q. And to try to -- in those instances  
 15 where a Teva product might be 100 percent primary,  
 16 it's usually giving the customer something in  
 17 exchange for that 100 percent primary position, for  
 18 example, a better price than its competitor?  
 19 MR. DIAMANTATOS: Objection; form, vague.  
 20 BY THE WITNESS:  
 21 A. It comes down to a number of different  
 22 items. It's not always price.  
 23 BY MR. KIEFFER:  
 24 Q. Okay. What are some of the other things

1 you're the only one that -- for them.  
 2 BY MR. KIEFFER:  
 3 Q. And, again -- and that's fair. My  
 4 question is at the moment is a general one. Try to  
 5 speed us along.  
 6 A. Okay. I'm sorry.  
 7 Q. No, no, your answer was fine.  
 8 A. Okay.  
 9 Q. I just want to bring us full circle  
 10 before I move on.  
 11 A. Okay.  
 12 Q. In general terms, insofar as you're  
 13 aware at Teva for a Teva product, a generic  
 14 product, to be referred to as 100 percent primary,  
 15 again as a general rule, it would mean that the  
 16 particular Teva product is the only product on that  
 17 customer's shelf in their formulary. You're not  
 18 competing against another manufacturer's comparable  
 19 generic product?  
 20 MR. DIAMANTATOS: Objection; form.  
 21 BY THE WITNESS:  
 22 A. You are -- so, there's competition and  
 23 not to say -- so, even -- I guess you could go on.  
 24 You would have to look at shelves.

1 that could result in a Teva product being  
 2 100 percent primary for a customer?  
 3 A. Anecdotally, the account not liking the  
 4 other manufacturer.  
 5 Q. Okay.  
 6 A. Not liking the other representative.  
 7 Could be supply. I mean, it's really -- it's up to  
 8 the account to make, make those decisions and  
 9 sometimes you don't even know why.  
 10 Q. Sometimes, though, in your experience it  
 11 definitely does come down to price, correct?  
 12 MR. DIAMANTATOS: Objection; form, asked and  
 13 answered.  
 14 BY THE WITNESS:  
 15 A. I believe, like I said, it's one of the  
 16 aspects that they -- that they review.  
 17 BY MR. KIEFFER:  
 18 Q. Do you ever get e-mails from customers  
 19 asking you if you want to submit a bid to protect  
 20 Teva's position as being 100 percent primary for a  
 21 given product?  
 22 MR. DIAMANTATOS: Objection; form.  
 23 BY THE WITNESS:  
 24 A. I would think over the course of my

1 time, yes, I would.  
 2 MR. KIEFFER: Can you blow up Document No. 10  
 3 for me.  
 4 (WHEREUPON, a certain document was  
 5 marked Allergan-Dorsey Exhibit  
 6 No. 21: PowerPoint,  
 7 TEVA\_MDL\_A\_01439745.)  
 8 BY MR. KIEFFER:  
 9 Q. Mr. Dorsey, we've just marked as  
 10 Exhibit No. 21 a document. It is a PowerPoint that  
 11 was obtained from some of your electronic files  
 12 that were furnished us in this case.  
 13 The first page of it states, "WBAD  
 14 Review, October 2, 2017."  
 15 Do you see that?  
 16 A. Yes.  
 17 Q. All right. And WBAD, how do you say  
 18 that? Do you say "we-bad"?  
 19 A. Say it with a little attitude if you  
 20 want, but yes.  
 21 Q. I'm sorry?  
 22 A. I'm joking. You can say it with a  
 23 little attitude. But yes, "we-bad."  
 24 Q. Okay. But that is how it's said instead

1 this PowerPoint?  
 2 A. May have had a part, part of it.  
 3 Q. Okay. Do me a favor. Turn to the  
 4 second page of that, if you would.  
 5 A. Yes.  
 6 Q. There is a slide that says "Total Gross  
 7 Sales."  
 8 Do you see that?  
 9 A. Yes.  
 10 Q. I just want to be clear on what's being  
 11 shown here. Okay. There is a -- on the left-hand  
 12 column there is "Amerisource," "Walgreens" and  
 13 "Total WBAD"; and there's two columns "Year-to-Date  
 14 August 17 Sales" and "2017 Projected Sales." Do  
 15 you see those?  
 16 A. Yes.  
 17 Q. Those sales numbers, first of all, am I  
 18 correct they are gross sales numbers based on the  
 19 title of this slide?  
 20 A. That would be correct.  
 21 Q. Those sales, are those sales of Teva to  
 22 those customers?  
 23 MR. DIAMANTATOS: Objection; form, foundation.  
 24 BY THE WITNESS:

1 of "W-bad."  
 2 A. Yes.  
 3 Q. Folks within Teva say, call it "we-bad"?  
 4 MR. DIAMANTATOS: Objection; form, foundation.  
 5 BY THE WITNESS:  
 6 A. I don't know how it all started, but the  
 7 genesis was from Walgreens Boots Alliance  
 8 Development Company.  
 9 BY MR. KIEFFER:  
 10 Q. Do you refer to it by the acronym?  
 11 A. Yes, it's a lot shorter.  
 12 Q. And when you personally refer to it, you  
 13 say "we-bad."  
 14 MR. DIAMANTATOS: Objection; asked and  
 15 answered.  
 16 BY THE WITNESS:  
 17 A. Best of my knowledge, yes.  
 18 BY MR. KIEFFER:  
 19 Q. I just want to call it by the name you  
 20 all call it by. It's not controversial.  
 21 A. Yeah, I -- probably call it other names.  
 22 But, yes, I would -- that's probably a high  
 23 percentage of the time is "we-bad."  
 24 Q. All right. Do you know if you presented

1 A. Best of my knowledge that would have  
 2 been, yes, that would have been Teva products sold  
 3 to those three or to those two entities.  
 4 BY MR. KIEFFER:  
 5 Q. Okay. All right. And the -- you said  
 6 earlier this WBAD group, they do purchasing or it  
 7 does purchasing for both Amerisource and Walgreens?  
 8 A. If I did, let me stand corrected or  
 9 correct that statement.  
 10 They do the contract negotiations for  
 11 AmerisourceBergen, Walgreens and then also  
 12 Econdisc.  
 13 Q. They do the contract negotiations that  
 14 leads to the purchase?  
 15 A. Correct.  
 16 Q. Okay.  
 17 A. Yeah.  
 18 MR. SCHOCK: Object to form.  
 19 BY MR. KIEFFER:  
 20 Q. Fair enough. So, the year-to-date  
 21 August 2017 sales attributable to the efforts of  
 22 WBAD were a little over \$1.3 billion in Teva  
 23 products, correct?  
 24 MR. DIAMANTATOS: Objection; form.

1 BY THE WITNESS:  
2 A. Based on --  
3 MR. DIAMANTATOS: Foundation. Go ahead.  
4 BY THE WITNESS:  
5 A. Based on this, this slide, yes.  
6 BY MR. KIEFFER:  
7 Q. All right. And the projected 2017  
8 sales, according to this presentation at least,  
9 were just a little bit under \$2 billion?  
10 A. Yes, correct.  
11 Q. All right. Of Teva products?  
12 A. Correct.  
13 Q. All right. Now, turn, if you would --  
14 let's see. I'm sorry. This isn't numbered. Let's  
15 see. Flip back two pages there.  
16 MR. SCHOCK: Is there a page number for  
17 Exhibit 21?  
18 MR. KIEFFER: Sorry?  
19 MR. SCHOCK: Is there a page number for  
20 Exhibit 21?  
21 MR. KIEFFER: Yeah, there's -- it's  
22 TEVA\_MDL\_01439745.  
23 MR. SCHOCK: Thank you.  
24 MR. KIEFFER: Yep. The PowerPoint pages are

1 not numbered, however.  
2 BY MR. KIEFFER:  
3 Q. Mr. Dorsey, yeah. You're on the correct  
4 page. This is a slide entitled "WBAD Volume  
5 Incentive Rebate Review." Did I read that  
6 correctly?  
7 A. Yes.  
8 Q. All right. And the -- there is a couple  
9 of columns on the left that talk about -- that are  
10 titled "Volume Incentive Goals," "Total Contract  
11 Sales" and "Volume Incentive Rebate Percentages."  
12 Do you see that?  
13 A. Yes.  
14 Q. And without getting bogged down in  
15 individual numbers, it looks as if when the volume  
16 sales -- the volume incentive sales goals in the  
17 left-hand column increase, the volume incentive  
18 rebate percentages in the right-hand column also  
19 increase. Correct?  
20 MR. DIAMANTATOS: Objection; form, foundation.  
21 BY THE WITNESS:  
22 A. Yes, basically how this format reads,  
23 yes, that's correct.  
24 BY MR. KIEFFER:

1 Q. Then look, if you would, on the  
2 right-hand side of that same page, there is a  
3 separate chart. The first column says,  
4 "Bonus Rebate Goal (Total Contract Sales)."  
5 Do you see that?  
6 A. Yes.  
7 Q. All right. And there is a "Bonus Rebate  
8 Period" identified and then on the right-hand  
9 column a "Bonus Rebate Payable." Correct?  
10 A. Yes.  
11 Q. And from this chart it appears that, for  
12 example, if sales attributable to WBAD were  
13 1.5 billion in that rebate period, there would be a  
14 \$9 million rebate payable and, alternatively, if  
15 sales attributable to WBAD were 2.025 billion  
16 during that rebate period, there would be a  
17 \$10 million rebate payable.  
18 Am I reading that correctly?  
19 MR. DIAMANTATOS: Objection; form, foundation.  
20 BY THE WITNESS:  
21 A. Yes, you're reading that how it's  
22 stated.  
23 BY MR. KIEFFER:  
24 Q. Yes?

1 A. Yes.  
2 Q. Okay. Again, without getting too mired  
3 in the numbers, what this is describing is an  
4 incentive to this large customer WBAD to buy more  
5 Teva products during this particular period and, in  
6 turn, get a larger dollar amount of rebate?  
7 MR. DIAMANTATOS: Objection; form, foundation.  
8 BY THE WITNESS:  
9 A. It's a program, I'm almost certain, that  
10 WBAD was looking for it out of their manufacturers  
11 to -- as a way to potentially differentiate  
12 yourself. So, you were asking again how -- it's  
13 supply. It's not always price. But it's supply.  
14 It's relationships.  
15 So, this -- this structure of a VIR, so  
16 volume incentive rebate, was structured between two  
17 parties and agreed upon and if there is, you know,  
18 sometimes if it's a flip of a coin from one  
19 manufacturer to another, you may get the -- you may  
20 get the -- the award.  
21 BY MR. KIEFFER:  
22 Q. Yeah, understood.  
23 A. Okay.  
24 Q. I appreciate that detail. My question,

1 honestly, was a little bit more basic than that.  
2 What's being described on this slide is  
3 an incentive that Teva is offering to WBAD in  
4 exchange for higher sales?

5 A. It's -- we're getting close. I guess  
6 what I'm looking, it's a volume incentive rebate  
7 that Teva has agreed to with WBAD. So, should the  
8 business grow, well, then we'll share in -- we'll  
9 share in that growth. If it doesn't, then the  
10 rebate would be less. Is that helpful?

11 Q. Fair enough. Yeah, I mean, this is  
12 just --

13 A. Okay.

14 Q. All I'm trying to get a handle on: This  
15 is one kind of tool in the Teva sales toolkit to  
16 promote sales of its branded products to an  
17 enterprise like WBAD in hopefully increasing  
18 volumes and amounts. That's the goal, right?

19 MR. DIAMANTATOS: Hold on. Objection; form,  
20 foundation, asked and answered, calls for  
21 speculation.

22 BY THE WITNESS:

23 A. I guess I don't know how to I guess  
24 fine-tune what I've -- I guess my understanding of

1 how, you know, how this came about as far as  
2 agreement, you know, between Teva and -- and WBAD.  
3 I guess what I've stated before I guess I would  
4 stand by as how I perceive this program to be.

5 BY MR. KIEFFER:

6 Q. Okay. You were aware of this program  
7 before today, right?

8 A. Oh, yes.

9 MR. DIAMANTATOS: Objection; form, foundation.

10 THE WITNESS: Sorry.

11 MR. DIAMANTATOS: Go ahead.

12 BY MR. KIEFFER:

13 Q. Yes?

14 A. Yes.

15 Q. Okay. And I think we established  
16 earlier, but if I'm wrong, correct me, WBAD is a  
17 client of yours?

18 A. WBAD is, yes, one of my -- one of my  
19 accounts I call on.

20 Q. That you call on?

21 A. Yes.

22 Q. Okay. And, so, I assume things like  
23 this volume incentive rebate program are a topic of  
24 discussion between you and the WBAD folks from time

1 to time, right?

2 A. From time to time, yes.

3 Q. Okay. And, so, I'm not asking you to  
4 speculate. This is something that you actually  
5 deal with hands-on in the course of your job,  
6 right?

7 A. Yes.

8 Q. Okay. And, again, just to -- I  
9 appreciate I think you're trying to be precise.

10 A. Yeah.

11 Q. My question was actually pretty simple  
12 and maybe not as looking for the detail that you  
13 thought it was.

14 A. Sorry.

15 Q. All I want to know is: Isn't it true  
16 this WBAD volume incentive rebate program is one  
17 tool in the Teva sales toolkit intended to increase  
18 volume of sales and increase dollars of sales of  
19 Teva products to its customers?

20 MR. DIAMANTATOS: Objection; form, foundation,  
21 calls for speculation, asked and answered  
22 repeatedly.

23 BY THE WITNESS:

24 A. I guess I would stand by what I've --

1 how I described what my interpretation of what  
2 the -- what the program is all about.

3 BY MR. KIEFFER:

4 Q. Certainly one important part of the  
5 program is to sell products and sell more of them,  
6 right?

7 MR. DIAMANTATOS: Objection; form, foundation,  
8 vague.

9 BY THE WITNESS:

10 A. I -- I don't know if you look at it that  
11 way. It's really matching up the needs of the  
12 customer to what we -- what we could -- what we're  
13 able to manufacture.

14 And, so, that's really the way I look at  
15 the simple -- simple -- simpleties of my job is try  
16 to mirror up the prescriptions that the physicians  
17 are writing, the FDA-approved products that are  
18 going to the patient, the patient is now bringing  
19 to the store, that the store wants to service  
20 because if they can't service that, then they lose  
21 their patient. So, it's important to have. The  
22 supply is really number one.

23 So, this is just a myriad of items  
24 that -- that you use as a -- or you work with the

1 accounts where some like it, some just want a net  
 2 price.  
 3 BY MR. KIEFFER:  
 4 Q. But you're not disputing that a  
 5 significant part of your job and your efforts is  
 6 aimed at increasing sales of Teva products. True?  
 7 MR. DIAMANTATOS: Objection; form.  
 8 BY MR. KIEFFER:  
 9 Q. I mean, you get evaluated on that basis.  
 10 You get bonused on that basis. True? We've looked  
 11 at some of those documents already.  
 12 MR. DIAMANTATOS: Objection; form, foundation,  
 13 mischaracterizes the witness' prior testimony,  
 14 asked and answered.  
 15 BY THE WITNESS:  
 16 A. It's not a -- I'm -- I'm -- I'm not --  
 17 you live within your base.  
 18 BY MR. KIEFFER:  
 19 Q. I'm sorry?  
 20 A. You live within your means. You live  
 21 within your base.  
 22 So, it's not -- I'm not that driven on  
 23 these as far as any bonus incentive. So, I look at  
 24 it -- and, again, it is mirroring up the needs of a

1 mean --  
 2 A. Okay.  
 3 Q. If you took the question that way --  
 4 A. Okay.  
 5 Q. -- that wasn't how it was intended.  
 6 A. Okay.  
 7 Q. We can take the time if we need to. I  
 8 am trying to move this along.  
 9 But you may recall earlier in the day  
 10 you were shown a PowerPoint that Mr. Perfetto put  
 11 together that identified you, I believe it was in  
 12 calendar year as 2010, as the top performing  
 13 salesperson?  
 14 A. Okay.  
 15 Q. Some reference to wearing blue jeans  
 16 with holes in them. Do you remember that?  
 17 A. I do remember the reference, yes.  
 18 Q. Okay. That particular PowerPoint  
 19 identified you as among several folks and you had  
 20 exceeded your sales budget target by the most of  
 21 anybody in that group. I think you were 130%,  
 22 i.e., 30% over your --  
 23 A. Okay.  
 24 Q. -- sales target for that period. You

1 customer.  
 2 If my customer is not -- is not in a  
 3 position or there is not a need, then there is  
 4 nothing -- there is nothing I can do.  
 5 If they're looking for a new  
 6 manufacturer, they're having a supply issue, there  
 7 is something else going on in the marketplace and I  
 8 actually can supply them, then everything works  
 9 great. If -- if none of that exists, well, then it  
 10 just doesn't -- it doesn't work out.  
 11 BY MR. KIEFFER:  
 12 Q. Okay. I'm not sure I understood. Are  
 13 you finished? I don't want to interrupt you.  
 14 A. Yeah, I'm good.  
 15 Q. I'm not sure I understand the first part  
 16 of your answer. You reference, "You live within  
 17 your means." Is that a personal comment about you  
 18 personally or is that a comment about a Teva  
 19 strategy?  
 20 A. Me personally.  
 21 Q. Okay. All right. I'm not trying to get  
 22 into your --  
 23 A. Okay.  
 24 Q. -- personal finances, and I didn't

1 know what I'm talking about?  
 2 A. I will take your word on that, that  
 3 number.  
 4 Q. And we can look at it if we need to.  
 5 A. Okay.  
 6 Q. Assume for the moment that the exhibit  
 7 you were shown --  
 8 A. Okay.  
 9 Q. -- includes that information. Okay?  
 10 A. Yeah.  
 11 Q. I'm not trying to argue with you.  
 12 But you don't dispute that one of the  
 13 expectations Teva has for you and folks in your  
 14 position is you're going to go out, you're going to  
 15 roll up your sleeves, you're going to be  
 16 resourceful, you're going to build relationships  
 17 and you're going to do what you can to increase  
 18 sales of Teva products?  
 19 MR. DIAMANTATOS: Objection; form, vague,  
 20 foundation, mischaracterizes the witness' prior  
 21 testimony, argumentative.  
 22 BY THE WITNESS:  
 23 A. I don't -- as you state it, I guess I  
 24 don't feel that way. It's not been my -- my



1 experience over -- over my tenure with Actavis and  
2 Teva.

3 BY MR. KIEFFER:

4 Q. Okay. Well, then I want to make sure  
5 before I move on that I have your testimony  
6 accurate.

7 Is it your testimony that it is not a  
8 part of your job and it is not -- the performance  
9 expectation that Teva has for you that you attempt  
10 to meet sales targets and increase sales volume and  
11 sales dollars to your clients?

12 MR. DIAMANTATOS: Objection; form, vague,  
13 mischaracterizes the witness' prior testimony,  
14 asked and answered, argumentative.

15 BY THE WITNESS:

16 A. I think I feel now it's kind of being  
17 twisted a little, bent, bent in a -- in a way that  
18 it's not.

19 So, I guess let me try to answer it a  
20 simple way. It's -- it's -- again, we -- for the  
21 most part, like I said, I understand we work  
22 together in essence as a team. Everyone has  
23 different accounts. Every account will have  
24 different product needs that they -- that they're

1 looking for. Some relationships work. Some  
2 relationships don't.

3 Supply, product, a retailer may need  
4 this product but we can't support it. However, now  
5 my retailer, different retailer, has a need for a  
6 different product due to supply shortage. Well, I  
7 can help them. So, am I any better than this  
8 person? Well, no, I just got the luck of the draw.  
9 I have had a product that we could manufacture.

10 So, it's -- we work together as a team  
11 and it's -- you seek, you know, you look -- you  
12 have these conversations with your accounts to see  
13 if there is -- there is any needs and any pain  
14 points and is there anything within the portfolio  
15 that we can -- we can assist with.

16 BY MR. KIEFFER:

17 Q. Thank you. There was a lot there. Let  
18 me ask a --

19 A. Sorry.

20 Q. -- similar but different question. I  
21 just want to get to the bottom of it. So, just  
22 tell me either way. Okay.

23 As far as you are concerned in your job  
24 at Teva. Okay. Is it or is it not a part of your

1 job to try to go out, where you can, and increase  
2 the sales of Teva's generic pharmaceutical  
3 products? Is that a part of your job or not a part  
4 of your job?

5 MR. DIAMANTATOS: Objection; form, vague.

6 BY THE WITNESS:

7 A. I don't see it as -- I guess I don't see  
8 it as that. It's where the needs are met. So, if  
9 there is a need from the customers, then -- and it  
10 happens to grow my business, then it grows the  
11 business. If it falls on the needs from an account  
12 coming from another -- another sales rep, then, you  
13 know, they're going to be it.

14 So, there's five different salespeople,  
15 multiple different accounts, and generics -- the  
16 demand is going to vary from account to account and  
17 which product and if we're able to support it.

18 So, you're making best efforts to  
19 identify any opportunities and if there is, you  
20 know -- it hasn't happened yet. But if there is no  
21 opportunities and everyone else gets it, well, then  
22 your numbers aren't growing but as a team maybe  
23 you're growing.

24 So, it's a holistic approach that the

1 five of us work together, you know, as a team with  
2 our accounts and what our accounts' needs are.

3 BY MR. KIEFFER:

4 Q. Okay. Similar but different question.

5 It's true, is it not, that at least one  
6 of the performance expectations for you is to meet  
7 or exceed sales goals. That gets tracked and that  
8 is a part of how you get evaluated and compensated,  
9 as we've saw in some of the documents we looked at  
10 a few minutes ago?

11 MR. DIAMANTATOS: Objection; form.

12 BY MR. KIEFFER:

13 Q. We can agree on that much?

14 MR. DIAMANTATOS: Objection; form.

15 BY THE WITNESS:

16 A. Based upon that -- that example that was  
17 provided, that was one of the objectives.

18 BY MR. KIEFFER:

19 Q. You were asked some questions earlier  
20 about the topic of suspicious order monitoring. Do  
21 you recall that general subject area?

22 A. Yes.

23 Q. You have an understanding that  
24 suspicious order monitoring, and, again, I'm

1 talking at a high level, is something that a  
2 company like Teva is required to do as it relates  
3 to controlled substances?

4 MR. DIAMANTATOS: Objection; form, foundation.  
5 BY THE WITNESS:

6 A. It's my general understanding, yes.

7 BY MR. KIEFFER:

8 Q. A company like Teva is required to  
9 conduct its own analysis of orders to see if -- and  
10 this is my term, okay, fair warning -- to see if  
11 anything looks out of the ordinary, out of trend,  
12 for example, unusual size, unusual frequency,  
13 unusual pattern of orders, those sorts of things?

14 MR. DIAMANTATOS: Objection; form, foundation.  
15 BY THE WITNESS:

16 A. I'm not -- again, I'm not privy to all  
17 the -- I mean, it sounds fair, but I'm not a part  
18 of the SOMs and as far as the metrics they create,  
19 what they need to look at. So, I'm not -- I don't  
20 have the expertise in that area.

21 BY MR. KIEFFER:

22 Q. Okay. And I'm not asking you for the  
23 granular detail. I'm just asking for your general  
24 understanding.

1 Do you have a general understanding that  
2 in doing suspicious order monitoring, some of the  
3 things that Teva looks at are things or should look  
4 at are things like orders of unusual size,  
5 frequency, pattern.

6 I'm not saying there aren't more things  
7 in that. I'm not defining what unusual size is.  
8 But are those things you've seen that get looked at  
9 within Teva and your time there?

10 A. It would be my experience that those  
11 ones you mentioned were part of what gets reviewed.

12 Q. Okay. Have you heard the term at Teva  
13 DEF OPS, D-E-F-O-P-S?

14 A. No.

15 Q. You don't know what that is?

16 A. No.

17 Q. If that is an acronym that refers to  
18 Teva's current system of suspicious order  
19 monitoring, is that news to you?

20 A. Yeah. I don't know.

21 Q. Don't know?

22 A. Correct.

23 Q. Do you know who a gentleman by the name  
24 of Joe Tomkiewicz is?

1 A. Yes.

2 Q. A gentleman that has worked in Teva's  
3 DEA compliance area?

4 A. Correct.

5 Q. How about a lady by the name of Colleen  
6 McGinn. Do you know who she is?

7 A. It's not ringing a bell.

8 MR. KIEFFER: How about Document 13, please.

9 MR. DIAMANTATOS: Did you say 13?

10 MR. KIEFFER: It's an internal document  
11 number.

12 MR. DIAMANTATOS: Sorry.

13 MR. KIEFFER: It's a little cumbersome. It's  
14 going to be Exhibit 22.

15 MR. DIAMANTATOS: Got it. Thank you.

16 MR. KIEFFER: That's okay.

17 (WHEREUPON, a certain document was  
18 marked as Allergan-Dorsey Exhibit  
19 No. 22: 1/25/16 e-mail;  
20 TEVA\_MDL\_A\_01428524 - 01428525.)

21 BY MR. KIEFFER:

22 Q. Mr. Dorsey, we just handed you what we  
23 marked as Exhibit 22. Exhibit 22 is an e-mail from  
24 a lady named Maria Lesny to you and another person.

1 It's got a Bates number of TEVA\_MDL\_01428524 and  
2 525.

3 Do you see the document I'm referring  
4 to?

5 A. Yes.

6 Q. The subject says, "ABC order management  
7 revised."

8 Do you see that?

9 A. Yes.

10 Q. And the ABC there, does that refer to  
11 AmerisourceBergen?

12 A. Yeah, best of my knowledge, yes.

13 Q. Okay. And it states there, "Good  
14 afternoon. Please be advised that the following  
15 orders have been adjusted for the following  
16 reasons:" And then there are three reasons stated,  
17 "Your order exceeds historical trend. Your order  
18 exceeds days on hand. Your order exceeds your  
19 monthly allocation."

20 Do you see that?

21 A. Yes, I do.

22 Q. All right. Why is it that you would  
23 receive an e-mail like this?

24 MR. DIAMANTATOS: Objection; form,

1 speculation.  
 2 BY THE WITNESS:  
 3 A. Well, I'm trying to think of.  
 4 BY MR. KIEFFER:  
 5 Q. Let me ask a different question. Let me  
 6 withdraw that and ask a different question.  
 7 A. Okay.  
 8 Q. This e-mail is dated January 25, 2016.  
 9 Was AmerisourceBergen a client you were responsible  
 10 to at that point in time?  
 11 A. That's what I was just thinking of.  
 12 MR. DIAMANTATOS: Objection to form.  
 13 MR. SCHOCK: Objection to form.  
 14 MR. DIAMANTATOS: Go ahead.  
 15 BY THE WITNESS:  
 16 A. That's what I'm trying to determine.  
 17 I'm -- I am not sure when Watson. I don't -- I  
 18 don't think -- because '16 would have been Watson.  
 19 So, I don't believe AmerisourceBergen was an  
 20 account in '16 that I was -- that I was calling on.  
 21 BY MR. KIEFFER:  
 22 Q. Okay. Well, be that as it may, the part  
 23 that's highlighted there under "Good afternoon"  
 24 indicates that for the three reasons stated certain

1 have been a little different than my question.  
 2 A. Okay. Sorry.  
 3 Q. I wasn't asking if everything in the  
 4 order was cut.  
 5 A. Okay.  
 6 Q. I'm just -- this particular -- we can  
 7 agree this Exhibit 22, it doesn't say that the  
 8 orders have been canceled. True?  
 9 MR. DIAMANTATOS: Objection; form, foundation,  
 10 calls for speculation.  
 11 BY THE WITNESS:  
 12 A. My -- well, I'm just -- being not the  
 13 author, I'm just going off of what's on -- on the  
 14 document. It says it's been adjusted.  
 15 BY MR. KIEFFER:  
 16 Q. Right. Doesn't say canceled, frozen,  
 17 pending, suspended, on hold, anything like that. It  
 18 says "adjusted," past tense, right?  
 19 MR. DIAMANTATOS: Objection; form, foundation,  
 20 calls for speculation, compound, asked and  
 21 answered.  
 22 BY MR. KIEFFER:  
 23 Q. Did you answer. I'm sorry?  
 24 A. I didn't know it was still open. I

1 orders have been adjusted. Do you see what I'm  
 2 referring to?  
 3 A. Yes.  
 4 Q. Adjusted meaning adjusted downward,  
 5 correct?  
 6 A. More likely how these reports are, yes,  
 7 they would adjust it from what they were looking  
 8 for. So, that would -- the direction would be  
 9 down.  
 10 Q. Adjusted downward and then presumably  
 11 shipped out, right?  
 12 MR. DIAMANTATOS: Objection; form, calls for  
 13 speculation, foundation.  
 14 BY THE WITNESS:  
 15 A. No. Best of my knowledge, that it's --  
 16 it's -- again, I guess I'd have to see, you know,  
 17 what -- in order to fully understand this is to  
 18 find out, okay, what did they order, what was --  
 19 what was being shipped and what was being cut, if  
 20 that was -- if it's all, some or none. I just -- I  
 21 don't know from this -- from this report.  
 22 BY MR. KIEFFER:  
 23 Q. Well, again, I think your -- I  
 24 appreciate the detail. I think your answer might

1 guess it would be the same as I said before. Based  
 2 upon what how it's read, it says, "The following  
 3 orders have been adjusted." Sorry.  
 4 MR. KIEFFER: Document 14.  
 5 BY MR. KIEFFER:  
 6 Q. Sir, Document 14, which we have just  
 7 marked as Exhibit 23.  
 8 (WHEREUPON, a certain document was  
 9 marked as Allergan-Dorsey Exhibit  
 10 No. 23: 5/31/16 e-mail;  
 11 TEVA\_MDL\_A\_01428583 - 01428584.)  
 12 BY MR. KIEFFER:  
 13 Q. Is an e-mail again from Maria Lesny to  
 14 you and others with a Bates stamp TEVA\_MDL\_01428583.  
 15 Do you have that document in front of  
 16 you?  
 17 A. Yes.  
 18 Q. And this one is dated 5/31 of '16. This  
 19 also is -- the subject is "ABC order management  
 20 revised." And it states, "Please be advised that  
 21 the following orders have been adjusted for the  
 22 following reasons: Your order exceeds your  
 23 historical trend."  
 24 Do you see that?

1 A. Correct.  
 2 Q. Okay. And, again, without belaboring  
 3 it, there is nothing on here that expressly  
 4 indicates that the order has been canceled,  
 5 rescinded, pending, suspended, frozen, put on hold.  
 6 It just says it's been adjusted, correct?  
 7 A. Yes.  
 8 Q. Okay.  
 9 MR. KIEFFER: Document 15.  
 10 (WHEREUPON, a certain document was  
 11 marked Allergan-Dorsey Exhibit  
 12 No. 24: 12/8/16 e-mail;  
 13 TEVA\_MDL\_A\_01436277.)  
 14 BY MR. KIEFFER:  
 15 Q. Mr. Dorsey, we're handing you  
 16 Exhibit 24, and Exhibit 24 is another e-mail from  
 17 Maria Lesny, this time only to you, dated 12/8 of  
 18 '16. It is TEVA\_MDL\_01436277. The subject is  
 19 identified as "Dakota order management revised."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. This one states, "Good morning. Please  
 23 be advised that the following orders have been  
 24 adjusted for the following reasons:" The reasons

1 of that, right?  
 2 A. Correct.  
 3 Q. And then some of the other product,  
 4 looks like two of the products anyway were -- the  
 5 quantities ordered were adjusted downward, right?  
 6 A. Correct.  
 7 Q. Okay. All right. And then is it your  
 8 understanding that once these adjustments are made,  
 9 the adjusted order is shipped?  
 10 MR. DIAMANTATOS: Objection; form, foundation.  
 11 BY THE WITNESS:  
 12 A. I'm not quite sure, you know, since it's  
 13 not my day-to-day. I execute it through, but I  
 14 know that they will cancel those orders and will  
 15 not ship them.  
 16 BY MR. KIEFFER:  
 17 Q. Will not ship the canceled or the  
 18 rejected amounts?  
 19 A. Correct.  
 20 Q. But the adjusted amounts go ahead and  
 21 ship, correct?  
 22 MR. DIAMANTATOS: Objection to form,  
 23 foundation.  
 24 BY THE WITNESS:

1 given are, "Order exceeds normal monthly trend and  
 2 your order exceeds your monthly allocation."  
 3 Do you see that?  
 4 A. Yes.  
 5 Q. Similar questions with respect 24 as  
 6 with 22 and 23. Nothing on this exhibit to  
 7 indicate that these orders have been canceled or  
 8 rescinded or frozen or pending or put on hold or  
 9 anything like that. They have simply been adjusted  
 10 downward at least in part. True?  
 11 A. I would add to that that it says  
 12 "adjusted." But if you look at the second column,  
 13 it says "Rejected Quantities" and then the third  
 14 column will tell you the adjusted order quantity;  
 15 and a lot, vast majority of them are zero.  
 16 Q. Okay. Can we zoom in on that. Over on  
 17 the right you're talking about?  
 18 A. Yes.  
 19 Q. Okay. So, for example, the first one  
 20 that's -- let's look -- there is a lot listed  
 21 toward the bottom for morphine sulfate?  
 22 A. Yep.  
 23 Q. And there were various quantities  
 24 ordered, those quantities rejected and zero shipped

1 A. Again, it's -- I'm not -- it's not a  
 2 department I -- it would lend you to believe that,  
 3 but it's not a department that I'm -- that I  
 4 follow.  
 5 BY MR. KIEFFER:  
 6 Q. Who makes these adjustments?  
 7 A. That would --  
 8 MR. DIAMANTATOS: Objection; form, foundation.  
 9 BY THE WITNESS:  
 10 A. I think it's an internal process of --  
 11 what we're seeing here is an internal process, and  
 12 I don't know if it's SOMs combined with customer  
 13 service, but it's an internal process that is  
 14 looking at what their past ordering pattern is,  
 15 what it is now, and then making those  
 16 determinations for those reasons, oh, it's beyond  
 17 monthly trend or it exceeds your allocation.  
 18 So, it's kind of the SOMs process  
 19 working in place when an account was trying to  
 20 purchase the product.  
 21 MR. KIEFFER: Can you pull up document 12.  
 22 Let me apologize. I don't have a hard  
 23 copy of it. Let me identify it for the record and  
 24 we can just show it on the screen if it's okay.

1 BY MR. KIEFFER:

2 Q. Document 12 is an e-mail, the latest  
3 from a lady named Nancy Baran. The latest date of  
4 which is October 12, 2012, bears a Bates range of  
5 ALLERGAN\_MDL\_03380657 to 80669.

6 My only question for you, Mr. Dorsey,  
7 is -- well, let me --

8 MR. DIAMANTATOS: Counsel, I'm going to  
9 object. If you are going to ask him questions on  
10 the e-mail, I need him to be able to review the  
11 entire e-mail exchange before you put a question to  
12 him about it. I'm not trying to be difficult, but  
13 this is less than ideal.

14 MR. KIEFFER: Well, let me ask him one  
15 question. We'll see if we will need to do that.

16 MR. DIAMANTATOS: No, I'm going -- if you are  
17 going to ask him a question from a document, he  
18 needs to be able to review the document in its  
19 entirety. That's my objection.

20 If you want to leaf through each of the  
21 pages to show him it on the screen and the witness  
22 can read it, that's one option. But I need him to  
23 do that before he answers questions.

24 MR. KIEFFER: I don't need him to read the

1 entire string. There is a particular e-mail I want  
2 to inquire about, and if he -- and it's a yes-no  
3 question.

4 MR. DIAMANTATOS: Counsel.

5 MR. KIEFFER: If he says, "I've got to read  
6 it," he can then read it.

7 MR. DIAMANTATOS: Counsel, you're showing him  
8 an exhibit. I need him to be able to review the  
9 exhibit. You can put however many questions to him  
10 that you think are appropriate to the exhibit,  
11 whether it's one question, a yes or no, according  
12 to you or whatever.

13 Bottom line is he's got to review it.

14 So, if you want to leaf through the pages so he  
15 can, that's great.

16 MR. KIEFFER: I'll tell you what. We'll look  
17 for the exhibit here, but let me -- you can pull  
18 that down if you want.

19 BY MR. KIEFFER:

20 Q. Let me ask you this question, sir: Has  
21 it ever come to your attention or has anyone within  
22 Teva or Actavis ever told you that the DEA frowns  
23 on cutting orders to quantities to reach a point at  
24 which the order is acceptable? Have you ever heard

1 that?

2 MR. ROTH: Objection; form.

3 MR. DIAMANTATOS: Objection; form.

4 BY THE WITNESS:

5 A. Best of my knowledge, doesn't -- no  
6 recollection of that.

7 BY MR. KIEFFER:

8 Q. You have no recollection of that?

9 A. Correct.

10 Q. Okay. And if there are documents from  
11 Teva's internal files that would indicate that you  
12 received e-mail or e-mails making those statements,  
13 is it your testimony you simply don't remember  
14 that?

15 MR. DIAMANTATOS: Objection; form,  
16 argumentative.

17 BY THE WITNESS:

18 A. I'm just saying at this juncture as  
19 you're bringing it up without me looking at  
20 anything, I think -- it doesn't -- it doesn't -- I  
21 guess I don't recollect any of that, correct.

22 BY MR. KIEFFER:

23 Q. Are you aware of whether by cutting --  
24 by Teva cutting orders to reach a point at which

1 the order is acceptable, that it causes those  
2 orders to not be flagged by Teva's suspicious order  
3 monitoring system?

4 MR. DIAMANTATOS: Objection; form, foundation.

5 BY THE WITNESS:

6 A. Again, since I'm not part of that, I  
7 don't know the full makeup of SOMs and the rules  
8 and regulations. So, I guess the answer would be  
9 based upon I don't have that knowledge. I don't  
10 know.

11 BY MR. KIEFFER:

12 Q. Okay. Okay. Just to be clear. If by  
13 Teva cutting a customer's order to a level at which  
14 it is deemed acceptable, if by doing that, that  
15 causes the particular order to not be flagged by  
16 Teva's suspicious order monitoring system, that is  
17 not a topic that you know anything about one way or  
18 another. Am I correct?

19 MR. DIAMANTATOS: Objection; form, foundation,  
20 mischaracterizes the witness' testimony, asked and  
21 answered.

22 BY THE WITNESS:

23 A. I -- like I said, I am not integrally  
24 involved as far as with the SOMs and how that that

1 whole process. So, I would I guess -- based upon  
 2 serving my current memory, yes, I don't know about  
 3 it.  
 4 BY MR. KIEFFER:  
 5 Q. You don't know about it?  
 6 A. Correct.  
 7 Q. Okay. All right.  
 8 MR. KIEFFER: Can we pull up Exhibit 13 marked  
 9 earlier in the day today.  
 10 I think that was document 13. This is  
 11 Exhibit No. 13 that was marked earlier in the  
 12 examination.  
 13 I will give it right back to you if I  
 14 can check the Bates number.  
 15 BY MR. KIEFFER:  
 16 Q. So, we are clear on the record, this  
 17 Exhibit 13 is document Acquired\_Actavis\_00352198 to  
 18 352202.  
 19 And if you would, sir, turn to the third  
 20 page in of that document, which is Page No. 352200,  
 21 and there is an e-mail at the top to you.  
 22 MR. KIEFFER: Can we blow up the first  
 23 paragraph after, "Hi Mike."  
 24 BY MR. KIEFFER:

1 Q. Okay. And Ms. Freeman's comment is,  
 2 "I struggle with this one. We can't cut the order  
 3 as that is not allowed. We don't want to cancel  
 4 because that would require us to report the order  
 5 to the DEA."  
 6 Do you see what I just read?  
 7 A. I heard, yes.  
 8 Q. Okay.  
 9 A. And see.  
 10 Q. This was addressed specifically to you  
 11 and copied to others, correct?  
 12 A. Yes.  
 13 Q. And, briefly, the other folks cc'd on  
 14 that e-mail, what areas are they in?  
 15 A. Okay. So, it starts with Vicki. I  
 16 reply back. Okay. And then -- then Vicki is  
 17 replying back to me. Right?  
 18 Q. Okay.  
 19 A. It's a chain of three.  
 20 Nancy Baran heads up the customer  
 21 service team. Rachelle, I believe we landed on  
 22 product manager.  
 23 Q. Okay.  
 24 A. Maria, customer service. Yeah, customer

1 Q. This is Vicki Freeman writing to you.  
 2 Who is Ms. Freeman again?  
 3 A. Just -- distribution administrator. I'm  
 4 not sure. I don't know like which department she's  
 5 under, if it's -- I don't know which department it  
 6 was.  
 7 Q. Okay.  
 8 A. Shipping maybe.  
 9 Q. Okay. But she acts as if she's got some  
 10 familiarity with you because she addresses the  
 11 e-mail "Hi Mike." Did you deal with her from time  
 12 to time?  
 13 A. Well, yeah, it's kind of a normal  
 14 greeting, but yes.  
 15 Q. All right. Fair enough.  
 16 She states, "I struggle with this one."  
 17 And let me back up. The subject is  
 18 listed as "ABC," or AmerisourceBergen, "orders  
 19 pended in suspicious order monitoring for Oxy  
 20 tabs." Correct?  
 21 A. That's how it reads, yes.  
 22 Q. And that is -- the e-mail is dated  
 23 December 27, 2012, right?  
 24 A. Yes.

1 service. Probably part of the -- looks like I  
 2 think from a previous document we had something  
 3 with SOMs attached, like a SOMs rep.  
 4 Karen, same. I don't know if she was  
 5 customer service. I'm not 100 percent sure of what  
 6 Karen's role was.  
 7 And then obviously who falls under the  
 8 SOM order inquiry and even Violet.  
 9 Q. Fair enough. Going back to her comments  
 10 that are highlighted here, after she says, "I  
 11 struggle with this one," the first statement, "We  
 12 can't cut the order as that is not allowed."  
 13 What do you understand that to be  
 14 communicating?  
 15 MR. DIAMANTATOS: Objection; form, foundation,  
 16 calls for speculation, asked and answered.  
 17 BY MR. KIEFFER:  
 18 Q. Let me try to respond to the objection.  
 19 A. Okay.  
 20 Q. If you have to completely speculate to  
 21 answer this, you can tell me that. What I struggle  
 22 with is she's addressing this directly to you with  
 23 the presumption that you understand the concern  
 24 that she's communicating.



1 So, what I want to know is do you  
2 understand the concern she's been communicating --  
3 that she is trying to communicate here or do you  
4 have no idea?

5 MR. DIAMANTATOS: Same objections.

6 MR. SCHOCK: Object to form.

7 BY THE WITNESS:

8 A. Yeah, I don't know. Since I'm not the  
9 author, I'm not sure what she was stating.

10 BY MR. KIEFFER:

11 Q. And my question -- let me go back to it  
12 a little bit. I know you're not the author, and  
13 I'm not asking you to read the mind of the author.  
14 But we all every day author e-mails and receive  
15 e-mails. Right? You probably do.

16 A. No, not at all. Yes.

17 Q. I know I do. Okay?

18 A. Yes.

19 Q. Most of the e-mails that I receive I  
20 understand the content that's being communicated.  
21 Sometimes I don't, but most of the times I do.

22 As a general rule in your job is that  
23 pretty much true?

24 MR. DIAMANTATOS: Objection; form, vague.

1 BY THE WITNESS:

2 A. There's -- general answer, yes, you get  
3 a lot of -- a lot of e-mails. Some things make  
4 perfect sense and there is some of them that  
5 doesn't make perfect sense.

6 BY MR. KIEFFER:

7 Q. All right. When she says, "I struggle  
8 with this one. We can't cut the order as that is  
9 not allowed," what do you interpret that statement,  
10 you interpret that statement to mean, "We can't cut  
11 the order as that is not allowed," or do you just  
12 have no idea at all what she's trying to  
13 communicate here?

14 MR. DIAMANTATOS: Objection; form, calls for  
15 speculation.

16 MR. SCHOCK: Object to form.

17 MR. DIAMANTATOS: Asked and answered.

18 BY THE WITNESS:

19 A. I have no idea what she is saying on  
20 this one.

21 BY MR. KIEFFER:

22 Q. Blank slate?

23 A. Correct.

24 Q. Okay. Next statement, "We don't want to

1 cancel because that would require us to report the  
2 order to the DEA."

3 Do you see that?

4 A. I see it, yes.

5 Q. You understand what she's communicating  
6 there?

7 A. I don't know the -- as far as the  
8 policies. I'm just reading what she's -- what  
9 she's saying.

10 Q. She believes if the company, in this  
11 case Actavis at the time, canceled that order,  
12 Actavis would be required to report it to the DEA.  
13 At least that's what you interpret she's  
14 communicating to you there?

15 MR. DIAMANTATOS: Objection; form as to what  
16 the -- objection; form, calls for speculation,  
17 foundation, asked and answered.

18 BY THE WITNESS:

19 A. It's --

20 MR. SCHOCK: Object to form.

21 BY THE WITNESS:

22 A. It would be -- again, I'm not -- because  
23 I don't have coverage within there, I don't know  
24 the rules and regulations and why she would say,

1 say such a thing, so I don't know.

2 BY MR. KIEFFER:

3 Q. No idea?

4 A. No idea.

5 Q. Blank slate again?

6 MR. DIAMANTATOS: Objection; form, asked and  
7 answered.

8 BY THE WITNESS:

9 A. Yes.

10 BY MR. KIEFFER:

11 Q. Okay. Assume for the moment, without  
12 getting into the policies, assume for the moment  
13 that Ms. Freeman is correct in her statement and  
14 that if Actavis canceled these pended orders for  
15 AmerisourceBergen, they would, they being Actavis,  
16 would be required to report that to the DEA. Just  
17 assume that for a second. Okay?

18 MR. DIAMANTATOS: Objection; form.

19 BY THE WITNESS:

20 A. I'm listening.

21 BY MR. KIEFFER:

22 Q. Okay. If that were the case, what would  
23 be wrong with Actavis reporting to the Drug  
24 Enforcement Agency suspicious orders that it was

1 required to report?

2 MR. DIAMANTATOS: Objection; form, foundation,

3 improper hypothetical.

4 BY MR. KIEFFER:

5 Q. What's the hesitation? What's the

6 roadblock?

7 MR. DIAMANTATOS: Objection. Same objections.

8 BY THE WITNESS:

9 A. I guess I don't know what else -- it

10 kind of falls in line with the previous comment. I

11 don't know. It's not my area of expertise, so I

12 don't know what she's communicating there or what

13 the thoughts are.

14 BY MR. KIEFFER:

15 Q. Okay. Do you know, were you -- was

16 AmerisourceBergen one of your clients at the time

17 of this e-mail?

18 MR. SCHOCK: Object to form.

19 BY THE WITNESS:

20 A. 2012. I was hired in -- it looks --

21 appears that, yes, they would be.

22 BY MR. KIEFFER:

23 Q. And you were -- fair warning. This is

24 my term.

1 with that.

2 BY MR. KIEFFER:

3 Q. All right. I can't recall if you were

4 asked this specific question before. So, if you

5 were, I apologize. You were asked some similar

6 ones.

7 Is it true that in no time while you

8 were at Actavis or at Teva did you ever make any

9 sort of suspicious order report about

10 AmerisourceBergen, whether internally or externally

11 to someone like the DEA? You never made any report

12 of that kind, right?

13 MR. DIAMANTATOS: Objection; form.

14 MR. SCHOCK: Object to form.

15 BY THE WITNESS:

16 A. Best of my knowledge, no, I did not.

17 BY MR. KIEFFER:

18 Q. And is it also true that in your time at

19 Actavis and later at Teva you never recommended to

20 anyone that Amerisource -- that a report be made

21 about AmerisourceBergen about suspicious ordering,

22 whether an internal report or externally to someone

23 like the DEA?

24 MR. DIAMANTATOS: Objection; form.

1 Were you kind of the relationship

2 manager between Actavis and AmerisourceBergen at

3 this point in time?

4 MR. DIAMANTATOS: Objection; form.

5 MR. SCHOCK: Object to form.

6 BY THE WITNESS:

7 A. I was the -- I was the representative of

8 Actavis on the -- as far as -- on the I guess sales

9 aspect as well as some other responsibilities

10 for -- from Actavis with kind of the liaison

11 between Actavis and AmerisourceBergen.

12 BY MR. KIEFFER:

13 Q. At the time of this e-mail in

14 December 2012, for lack of a better term, you were

15 the point man for Actavis on the sales side with

16 AmerisourceBergen?

17 MR. DIAMANTATOS: Objection; form.

18 MR. SCHOCK: Object to form.

19 BY THE WITNESS:

20 A. At this particular time I believe, like

21 I said, I was calling on AmerisourceBergen. So,

22 there's multiple faces with Actavis and

23 AmerisourceBergen. But as far as the sales, I was

24 one of -- one of the main -- main persons -- people

1 MR. SCHOCK: Object to form.

2 BY THE WITNESS:

3 A. My -- basically the history that I have

4 is that the only time -- again, I was not on the

5 front end of SOMS, not on the front end of

6 suspicious ordering process. That was a whole

7 other department.

8 And I -- the only time I have any touch

9 points with that would be after, after something

10 was identified and I needed -- if there was a

11 conversation or additional information that we

12 needed from -- from the customer to understand

13 better what -- what -- from their vantage point,

14 what was the rationale for the increased request

15 for product.

16 BY MR. KIEFFER:

17 Q. Okay. So I think, and I'm not trying to

18 quarrel with you, I think you might have answered a

19 slightly different question. But let me follow up

20 on your answer.

21 A. Okay.

22 Q. There were times -- there had been

23 times, whether at Actavis or at Teva, where a

24 customer's order or orders has been flagged as

1 suspicious and you as the point man on behalf of  
 2 your employer have reached out to the customer and  
 3 asked them for a justification or an explanation  
 4 for the order or orders. That's happened, right?

5 MR. DIAMANTATOS: Objection; form,  
 6 mischaracterizes the witness' prior testimony.  
 7 BY THE WITNESS:

8 A. I think you may have, you know, probably  
 9 seen some of that, seen some examples earlier today  
 10 where orders was identified and I was to seek out  
 11 additional information for -- from the customer.

12 BY MR. KIEFFER:

13 Q. Okay. And so -- I'm not trying to take  
 14 away from that. Okay?

15 A. Okay.

16 Q. There has been times where you have  
 17 sought out additional information from the customer  
 18 in relation to suspicious order. We can agree on  
 19 that?

20 A. Additional information, yes.

21 Q. Okay. But it's true, is it not, that at  
 22 no time while you were at Actavis or later at Teva  
 23 have you ever made any recommendation internally  
 24 that any customer's order or orders be reported as

1 suspicious, that a report be made that these are  
 2 suspicious orders, whether an internal report  
 3 within the company or an external report to  
 4 somebody like the DEA; you have personally not made  
 5 such a recommendation. True?

6 MR. DIAMANTATOS: Objection; form, asked and  
 7 answered, mischaracterizes the witness' testimony.  
 8 BY THE WITNESS:

9 A. Best of my answer -- or best of my  
 10 recollection, I think we answered this earlier, was  
 11 that since that's not my department, I was not  
 12 reporting, to the best of my knowledge, anything  
 13 to -- to the DEA.

14 BY MR. KIEFFER:

15 Q. Did it ever come to your attention that  
 16 at least as of September of 2012 Teva  
 17 Pharmaceuticals had never identified a single  
 18 suspicious order that it made a report on to the  
 19 DEA?

20 MR. DIAMANTATOS: Objection; form, foundation.

21 BY THE WITNESS:

22 A. To my knowledge, no.

23 BY MR. KIEFFER:

24 Q. That's -- today is the first time you

1 heard that?

2 MR. DIAMANTATOS: Objection; form, foundation,  
 3 asked and answered.

4 BY THE WITNESS:

5 A. Yes, correct.

6 MR. KIEFFER: Will you pull up Exhibit 14 from  
 7 earlier today. You're going to want a Bates  
 8 number.

9 MR. ROTH: Can we go off the record for a  
 10 second.

11 THE VIDEOGRAPHER: We are off the record at  
 12 5:08 p.m.

13 (WHEREUPON, discussion was had off  
 14 the record.)

15 THE VIDEOGRAPHER: We are back on the record  
 16 at 5:15 p.m.

17 MR. KIEFFER: Can you pull up Exhibit 14 that  
 18 was marked earlier today.

19 BY MR. KIEFFER:

20 Q. Mr. Dorsey, we're back on the record.  
 21 Are you ready to proceed?

22 A. Yes.

23 Q. Okay. I'm showing you part of  
 24 Exhibit 14 that was marked in an earlier portion of

1 the exam today. It's an e-mail string. There was  
 2 discussion in there.

3 MR. KIEFFER: Can you give us the full screen.  
 4 BY MR. KIEFFER:

5 Q. Discussion in there about Rochester Drug  
 6 with an increase in certain purchases that were  
 7 flagged. Do you recall that discussion?

8 A. Earlier today, yes.

9 Q. Okay. It was your testimony that you --  
 10 you were -- as a part of that e-mail exchange, you  
 11 were the person that was to contact Rochester Drug  
 12 and see what additional information you could get  
 13 about the orders that were flagged as concerning?

14 MR. DIAMANTATOS: Objection; form.

15 BY THE WITNESS:

16 A. Yes. There was a request for me to  
 17 contact Rochester.

18 BY MR. KIEFFER:

19 Q. Okay. And you recall in the e-mail  
 20 string you were asked about a comment from Nancy  
 21 Baran where she indicated "We should discuss this  
 22 one further"?

23 A. I see that line, yes.

24 Q. Okay. And I think you earlier

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1 testimony was other than that line appearing in the  
2 e-mail, you don't have a recollection of that  
3 issue, correct?

4 A. Of this -- like this event?

5 Q. Yes.

6 A. Yeah, correct.

7 Q. Did it ever come to your attention that  
8 in 2018, after the DEA opened an investigation into  
9 Rochester Drug, Teva terminated sales of all  
10 controlled substances to Rochester Drug?

11 A. Yes, it was brought to my attention.

12 Q. It was brought to your attention?

13 A. Yes.

14 Q. How was that brought to your attention?

15 A. I think, if I recall correctly,  
16 Rochester was asking -- they were asking what they  
17 could do, and I was not quite -- so, then I think I  
18 reached out to our DEA folks, it may have been Tom,  
19 the gentleman mentioned before, just to get a  
20 background of what was -- why we -- why we stopped  
21 shipping Rochester Drug.

22 So, I just got a very high level. We  
23 stopped shipping them. That's it. And we're  
24 not -- we're not shipping them controls anymore.

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1 MR. DIAMANTATOS: Objection; form, foundation.  
2 BY THE WITNESS:

3 A. I remember just top of mind right now  
4 that we did stop shipping them. As to the DEA  
5 investigation, I'm not quite sure if that -- I  
6 don't remember that right now, if that was also  
7 shared at the same time. It was basically we're  
8 done shipping.

9 Q. Okay. But you know that now?

10 A. Yes.

11 Q. All right. And you recall learning this  
12 in 2018?

13 A. I don't know the exact time, timeline  
14 when it was. Sorry.

15 Q. If other evidence and testimony in the  
16 case, for example, the testimony of Mr. Tomkiewicz  
17 is that it was in 2018 that Teva -- pardon me --  
18 that Teva terminated sales of controlled substances  
19 to Rochester Drug, do you have a memory different  
20 than that? Do you dispute that?

21 MR. DIAMANTATOS: Objection; form,  
22 argumentative.

23 BY THE WITNESS:

24 A. Again, since that's not in my -- my -- I

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1 Q. And the gentleman you mentioned, was it  
2 Mr. Tomkiewicz?

3 A. I believe that is the gentleman that I  
4 had the main conversation with, yes.

5 Q. Okay. And did you learn from  
6 Mr. Tomkiewicz that Teva terminated sales of  
7 controlled substances to Rochester Drug because the  
8 DEA had opened an investigation into that company,  
9 Rochester Drug?

10 MR. DIAMANTATOS: Objection; form, foundation.  
11 BY THE WITNESS:

12 A. I don't -- like I said, he was like at a  
13 very high level, so I'm not -- I don't know the  
14 exact reason why we stopped -- we stopped shipping  
15 them controls.

16 BY MR. KIEFFER:

17 Q. You don't know the reasons why?

18 A. Correct.

19 Q. Okay. But you did contact  
20 Mr. Tomkiewicz and you learned as a part of that  
21 two things: one, that Teva was no longer shipping  
22 controlled substances to Rochester Drug and, two,  
23 that the DEA had an ongoing investigation into  
24 Rochester Drug?

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1 guess I wouldn't know exactly when it was because  
2 it's not in my as far as responsibility. So, I  
3 would not -- would not know if -- when the exact  
4 date was.

5 BY MR. KIEFFER:

6 Q. Okay. Fair enough.

7 Are you aware of the fact that at no  
8 time between the e-mail exchange that you had  
9 regarding Rochester Drug back in January of 2013  
10 and 2018 when Teva finally suspended sales did  
11 anyone at Teva make a report to the DEA about  
12 suspicious ordering on the part of Rochester Drug?

13 MR. DIAMANTATOS: Objection; form, foundation,  
14 calls for speculation, asked and answered.

15 BY THE WITNESS:

16 A. Again, based upon it's outside of my  
17 realm of expertise that that -- I was unaware if  
18 there was a report or not a report on Rochester  
19 Drug in that time frame you explained.

20 BY MR. KIEFFER:

21 Q. Do you have any recollection back in  
22 January of 2013 of discussing internally whether  
23 anyone ought to make a report to the DEA about  
24 Rochester Drug?

1 MR. DIAMANTATOS: Objection; form, foundation.  
 2 BY THE WITNESS:  
 3 A. At this particular time, no, I don't  
 4 have any recollection.  
 5 BY MR. KIEFFER:  
 6 Q. Sorry?  
 7 A. I said at this particular time, I guess  
 8 nothing is striking me that I have that  
 9 recollection.  
 10 MR. KIEFFER: Can you pull up document 16 for  
 11 me.  
 12 (WHEREUPON, a certain document was  
 13 marked Allergan-Dorsey Exhibit  
 14 No. 25: 1/4/17 e-mail string;  
 15 TEVA\_MDL\_A\_06418852 - 06418855.)  
 16 BY MR. KIEFFER:  
 17 Q. Mr. Dorsey, document 16 -- I'm sorry.  
 18 What we just handed you is Exhibit 25, and it bears  
 19 a Bates number in the bottom right-hand corner  
 20 TEVA\_MDL\_06418852 to 06418855. It's an e-mail  
 21 string.  
 22 Do you see that?  
 23 A. Yes.  
 24 Q. Okay. This e-mail string in the -- on

1 Do you see that?  
 2 A. Okay, yes.  
 3 Q. And then Item 3, "An acknowledgment that  
 4 Teva Pharmaceuticals (which includes Actavis), is  
 5 not comfortable with our controlled substances  
 6 being sold to the following registrants." The  
 7 first registrant is Hope Pharmacy and the second is  
 8 Intermed Distributors, Inc.  
 9 Do you see that?  
 10 A. Yes.  
 11 Q. Okay. And I neglected to indicate the  
 12 e-mail is dated January 2 of 2017, correct?  
 13 A. January 4 -- sorry. January 2, yes.  
 14 Q. You were working for Teva at that time,  
 15 right?  
 16 A. Yes.  
 17 Q. If you go up further on that page to the  
 18 top, there is an e-mail from Mr. Tomkiewicz  
 19 directly to you carbon copying several other folks,  
 20 this one dated January 4, 2017.  
 21 Do you see that?  
 22 A. Yes.  
 23 Q. Mr. Tomkiewicz writes, "Mike, thanks for  
 24 setting up the call with Prescription Supply, Inc.

1 the first page of it, the subject line is  
 2 "Prescription Supply, Inc.," correct?  
 3 A. Yes.  
 4 Q. If you look at the bottom of the first  
 5 page of Exhibit 25, there is an e-mail from  
 6 Mr. Tomkiewicz to a couple of people, carbon  
 7 copying you and some others.  
 8 Do you see that?  
 9 A. Yes.  
 10 Q. Okay. And it states after the  
 11 salutation, "Please note that all controlled  
 12 substance orders for this customer will be placed  
 13 on hold until we receive the following information  
 14 from the customer."  
 15 Do you see that?  
 16 A. Yes.  
 17 Q. The first item of information indicated  
 18 is, "An overview of their new customer due  
 19 diligence process."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. Second item is "Knowledge/materials/etc.  
 23 indicating the relationship between Intermed  
 24 Distributors, Inc. and Nazih Jawad," a pharmacist.

1 Per our conversation, I've reinstated their ability  
 2 to order controlled substances on our end."  
 3 Do you see that?  
 4 A. Yes.  
 5 Q. Then he goes on to indicate to you,  
 6 "Sarah and I discussed Hope Pharmacy," and he puts  
 7 their number there, "and based on the information  
 8 PSI supplied regarding this registrant, please let  
 9 PSI know that we will not be rejecting chargebacks  
 10 for Hope, nor will we ask PSI to cease selling  
 11 controlled substances to them."  
 12 Do you see that?  
 13 A. Yeah, okay. Yes.  
 14 Q. Okay. What recollection do you have of  
 15 this call that Mr. Tomkiewicz references that you  
 16 set up with Prescription Supply?  
 17 MR. DIAMANTATOS: Objection; form, foundation.  
 18 BY THE WITNESS:  
 19 A. This whole -- again, I think this looks  
 20 like what it is. It's a -- it's a good example of  
 21 the SOMs process and notifying -- notifying  
 22 accounts that our accounts are selling to, kind of  
 23 working together, and then Joe would ask for a like  
 24 here's the -- here's what's standing out and we

1 need to get more information.

2 And then part of that information then  
3 was also setting up, setting up a phone call and  
4 e-mails work to a certain degree as far as  
5 garnering information but sometimes it's better,  
6 you know, over a call voice to voice.

7 That's all I remember is that, you know,  
8 we, you know, had that call with -- and I don't  
9 know. I believe -- and I'm unsure if I was on it  
10 or not. But there was a call between Joe and PSI  
11 or Prescription Supply, Incorporated.

12 Q. Do you recall anything about the  
13 substance of that call?

14 A. No, not -- not exactly. It would be  
15 centering around, though, the concerns that we --  
16 that our SOMs department, that Joe had.

17 Q. The concerns that the suspicious order  
18 monitoring department, Mr. Tomkiewicz had, some of  
19 that is laid out in his e-mail here at the bottom  
20 of this first page of Exhibit 25, correct?

21 MR. DIAMANTATOS: Objection.

22 BY MR. KIEFFER:

23 Q. What we just went through?

24 MR. DIAMANTATOS: Sorry. Objection; form,

1 foundation, calls for speculation.

2 BY THE WITNESS:

3 A. All I can do is based -- is like  
4 yourself, go off of what's written here and there's  
5 three points of information that we're looking --  
6 that we're looking for information from the  
7 account.

8 BY MR. KIEFFER:

9 Q. Okay. And let me focus for a moment on  
10 the issue related to Hope Pharmacy. At the bottom  
11 of the page, Item 3, Mr. Tomkiewicz on January 2 of  
12 2017, one of the things he wanted was an  
13 acknowledgment that Teva Pharmaceuticals was not  
14 comfortable with its controlled substances being  
15 sold to Hope Pharmacy, right? Do you see that?

16 A. Yes, I see that.

17 Q. Okay. And he even goes on to say in the  
18 last paragraph there, "I've attached recent  
19 disciplinary materials on Hope Pharmacy; please  
20 forward to Prescription Supply for their records."

21 Do you see that?

22 A. Yes.

23 MR. KIEFFER: Can you pull up Exhibit 17 for  
24 me.

1 (WHEREUPON, a certain document was  
2 marked Allergan-Dorsey Exhibit  
3 No. 26: Accusation before the  
4 State of California Board of  
5 Pharmacy; TEVA\_MDL\_A\_02311164 -  
6 02311181.)

7 BY MR. KIEFFER:

8 Q. Do you have Exhibit 26 in front of you?

9 A. Yes.

10 Q. Sir, Exhibit 26 bears a Bates No. of  
11 TEVA\_MDL\_02311164, and it is the disciplinary  
12 materials that were attached to Mr. Tomkiewicz's  
13 e-mail that is Exhibit 25 pertaining to Hope  
14 Pharmacy. All right?

15 A. Okay.

16 Q. Okay. This is a document captioned  
17 "Accusation" filed before the Board of Pharmacy for  
18 the State of California by Kamala Harris who was  
19 then Attorney General of California.

20 Do you see that?

21 A. Yes, I see that.

22 Q. Take a look, if you would, sir, at  
23 actually page -- original Page No. 9 of Exhibit 26,  
24 which is Bates No. 02311172.

1 A. Okay.

2 Q. Take a look at paragraph 24 there, if  
3 you would.

4 A. All right.

5 Q. Paragraph 24 indicates that on  
6 February 24, 2014, Respondent by the name of Mah  
7 e-mailed the board a DEA notification stating that  
8 Respondent Hope Pharmacy had lost 1,790 tablets of  
9 a hydrocodone product and 1,500 milliliters of  
10 another, promethazine with codeine.

11 Do you see that?

12 A. Yes.

13 Q. And then if you take a look at paragraph  
14 26, a little further down that page.

15 A. All right.

16 Q. That references an audit that was  
17 conducted and it indicates that Respondent Hope  
18 Pharmacy was short 16,919 tablets of HPAP 5/500,  
19 19,043 milliliters of promethazine with codeine and  
20 16,814 tablets of a hydrocodone product.

21 Do you see that?

22 A. Yes.

23 Q. If true, those are concerning  
24 allegations, are they not?



1 MR. DIAMANTATOS: Objection; form, foundation,  
2 calls for a legal conclusion.

3 BY THE WITNESS:

4 A. I guess it's -- I don't know how to --  
5 how to comment on as far as this report. First  
6 time I've seen it. So, it looks like employee  
7 pilferage.

8 BY MR. KIEFFER:

9 Q. Okay. Let me ask a question. Let me  
10 follow up on what you just said. You said this is  
11 the first time you've seen this.

12 Did you not open up what was attached to  
13 Mr. Tomkiewicz's e-mail when he raised these issues  
14 and requested an acknowledgment that Teva was not  
15 comfortable with its controlled substances being  
16 sold to Hope Pharmacy?

17 A. I more than likely just forwarded on per  
18 his request to -- to -- I think he wanted me to  
19 forward it on to PSI, right? "Please forward to  
20 Prescription Supply for their records."

21 So, since it was a big lengthy document,  
22 I don't have any recollection of fully reading this  
23 word for word.

24 Q. Do you know if you opened it and looked

1 at it at all?

2 MR. DIAMANTATOS: Objection; asked and  
3 answered.

4 BY THE WITNESS:

5 A. I don't know.

6 BY MR. KIEFFER:

7 Q. Don't know?

8 A. I don't know.

9 Q. If you take a look at original document  
10 page 13, which is Teva MDL 02311176.

11 A. Okay.

12 Q. All right. The large caption about  
13 two-thirds of the way down the page says, "First  
14 Cause for Discipline."

15 Do you see that?

16 A. Yes.

17 Q. And in the parenthetical it says,  
18 "Failure to safely and properly prepare, maintain,  
19 secure and distribute drugs - Respondents Hope  
20 Pharmacy and Mah."

21 Do you see that?

22 A. Yes.

23 Q. And then if you -- if you turn the  
24 page to the next page, which is original document

1 page 14, there is a second cause for discipline  
2 identified again against Respondents Hope Pharmacy  
3 and Mah for "Failure to maintain records of  
4 acquisition, disposition and current drug  
5 inventory."

6 Do you see that?

7 A. Yes.

8 Q. And then there is a third cause for  
9 discipline identified again against Respondents  
10 Hope Pharmacy and Mah, "Failure to maintain theft  
11 and impairment policies and procedures."

12 Do you see that?

13 A. Yes.

14 Q. You told us a moment ago you don't have  
15 a recollection of whether you actually even opened  
16 and looked at this document when it was forwarded  
17 to you by Mr. Tomkiewicz back in 2017, correct?

18 A. Correct.

19 Q. Okay. Having just looked at a portion  
20 of it, do these allegations and the disciplinary  
21 action that the California Board of Pharmacy was  
22 seeking to take against Hope Pharmacy, do they  
23 cause you any concern --

24 MR. DIAMANTATOS: Objection.

1 BY MR. KIEFFER:

2 Q. -- about whether Teva was selling its  
3 products to a customer PSI who in turn apparently  
4 was selling them to an enterprise where they were  
5 being potentially pilfered or diverted?

6 MR. DIAMANTATOS: Objection; form, foundation,  
7 calls for speculation.

8 BY THE WITNESS:

9 A. It's -- again, it's hard to make any  
10 comment. It's outside of my -- my discipline to  
11 really fully understand the scope, and I leave that  
12 really for to our internal experts.

13 BY MR. KIEFFER:

14 Q. Okay. When you set up this call with  
15 Prescription Supply that Mr. Tomkiewicz references  
16 here, do you recall whether the -- the accusations  
17 by the California Board of Pharmacy against Hope  
18 Pharmacy were a topic of discussion?

19 A. I don't recall what, I guess what was  
20 all, you know, specifically what was discussed  
21 during, during that phone call.

22 Q. Okay. Nothing at all?

23 A. Correct.

24 Q. Okay. Based upon, if we go back to

<p style="text-align: right;">Page 397</p> <p>1 Exhibit 25, the first e-mail at the top of the</p> <p>2 page, Mr. Tomkiewicz's e-mail to you, second</p> <p>3 paragraph, he has apparently moved past by this</p> <p>4 point his insistence that Teva get an</p> <p>5 acknowledgment that it's not comfortable with its</p> <p>6 controlled substances being sold to Hope Pharmacy</p> <p>7 and he's actually indicating that Teva will not ask</p> <p>8 PSI to cease selling controlled substances to Hope</p> <p>9 Pharmacy. Correct?</p> <p>10 A. That's how it reads, yes.</p> <p>11 Q. And you don't have any recollection of</p> <p>12 what information, if any, was shared during that</p> <p>13 call with Prescription Supply to get Teva over</p> <p>14 whatever concerns it had just two days earlier</p> <p>15 about its controlled substances being sold to Hope</p> <p>16 Pharmacy, correct?</p> <p>17 MR. DIAMANTATOS: Objection; form, foundation,</p> <p>18 calls for speculation, asked and answered.</p> <p>19 BY THE WITNESS:</p> <p>20 A. That is correct. I don't have any</p> <p>21 recollection.</p> <p>22 BY MR. KIEFFER:</p> <p>23 Q. Okay.</p> <p>24 MR. KIEFFER: Let's go off the record for a</p>	<p style="text-align: right;">Page 398</p> <p>1 second. I think I'm done, but let me take a quick</p> <p>2 look.</p> <p>3 THE VIDEOGRAPHER: We are off the record at</p> <p>4 5:38 p.m.</p> <p>5 (WHEREUPON, discussion was had off</p> <p>6 the record.)</p> <p>7 THE VIDEOGRAPHER: We're back on the record at</p> <p>8 5:39 p.m.</p> <p>9 MR. KIEFFER: Mr. Dorsey, just to wrap up.</p> <p>10 BY MR. KIEFFER:</p> <p>11 Q. You were asked at least one question</p> <p>12 earlier in the day that used the phrase "opioid</p> <p>13 epidemic." Do you recall that, that phraseology</p> <p>14 being used?</p> <p>15 A. A long day. Yes, I think so. I think</p> <p>16 so.</p> <p>17 Q. Do you believe this country is in the</p> <p>18 middle of an opioid epidemic?</p> <p>19 MR. DIAMANTATOS: Objection; form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I believe there is a lot of challenges</p> <p>22 that our country have, whether it's -- you've got</p> <p>23 illegal -- what you read, you've got synthetic</p> <p>24 fentanyl coming over from China that we're having</p>
<p style="text-align: right;">Page 399</p> <p>1 challenges with. You've got challenges with</p> <p>2 individuals that are -- for varied reasons that</p> <p>3 there is challenges.</p> <p>4 And it's sad that there is all these</p> <p>5 deaths due to various illicit drugs or whatever the</p> <p>6 scenario is. So, it's -- it's unfortunate, and</p> <p>7 I'm -- it's sad to hear that there is this -- this</p> <p>8 going on in this country.</p> <p>9 BY MR. KIEFFER:</p> <p>10 Q. And I appreciate that, and I think we</p> <p>11 can agree on that. My question was simply: Do you</p> <p>12 personally believe this country is in the middle of</p> <p>13 an opioid epidemic?</p> <p>14 MR. DIAMANTATOS: Objection; form.</p> <p>15 BY MR. KIEFFER:</p> <p>16 Q. Yes or no.</p> <p>17 MR. DIAMANTATOS: Objection; form, asked and</p> <p>18 answered and objection; instructing the witness how</p> <p>19 to answer.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I don't have enough information. In</p> <p>22 order for me to make an informed decision that's a</p> <p>23 yes-no, you need to have all the facts, all the</p> <p>24 numbers, how it's -- you're getting to those</p>	<p style="text-align: right;">Page 400</p> <p>1 numbers; and I don't have that presented to me to</p> <p>2 say yes or no that there's an epidemic.</p> <p>3 BY MR. KIEFFER:</p> <p>4 Q. Okay. And if representatives of the</p> <p>5 Federal Government as well as other representatives</p> <p>6 from Teva have given sworn testimony that -- if</p> <p>7 representatives of the Federal Government have made</p> <p>8 statements that the country is in the midst of an</p> <p>9 opioid epidemic and other witnesses from Teva have</p> <p>10 given sworn testimony that they agree that the</p> <p>11 country is in the middle of opioid epidemic, would</p> <p>12 your answer be any different than what you just</p> <p>13 gave us a moment ago?</p> <p>14 MR. DIAMANTATOS: Objection; form.</p> <p>15 BY MR. KIEFFER:</p> <p>16 Q. You'd have to look at all the data</p> <p>17 first?</p> <p>18 MR. DIAMANTATOS: Objection; form, foundation,</p> <p>19 argumentative.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I think there is that piece and then</p> <p>22 have conversations with those who -- who are the</p> <p>23 experts. I'm not an expert.</p> <p>24 MR. KIEFFER: Those are all the questions I</p>

<p style="text-align: right;">Page 401</p> <p>1 have for you. Thank you for your time today, sir.</p> <p>2 THE WITNESS: Thank you.</p> <p>3 MR. DIAMANTATOS: I just want to make a</p> <p>4 statement for the record.</p> <p>5 This morning Mr. Kieffer introduced</p> <p>6 himself as an entity or individual that represents</p> <p>7 the Teva Plaintiffs.</p> <p>8 Mr. Kieffer was one of the two</p> <p>9 Plaintiffs' lawyers questioning the witness today.</p> <p>10 He began his questioning, according to the</p> <p>11 videographer's time stamp, at 3:29 p m., which put</p> <p>12 us at a point where we were about four hours into</p> <p>13 the deposition.</p> <p>14 Mr. Kieffer introduced himself to the</p> <p>15 witness who is being deposed today as representing</p> <p>16 the Teva Plaintiffs.</p> <p>17 On a break I asked Mr. Kieffer who he</p> <p>18 represents in light of the description to the</p> <p>19 witness both this morning for the record and then</p> <p>20 thereafter to the witness as representing the Teva</p> <p>21 Plaintiffs, I asked for some clarity as to who he</p> <p>22 represents.</p> <p>23 Mr. Kieffer said, once again, that he</p> <p>24 represents the Teva Plaintiffs.</p>	<p style="text-align: right;">Page 402</p> <p>1 I'd just like to make a note that</p> <p>2 according to the deposition protocol entered in</p> <p>3 this case that governs attendance for the</p> <p>4 deposition, among other things, as well as the</p> <p>5 conduct of depositions, among other things,</p> <p>6 including witness examination, first, with regard</p> <p>7 to witness attendance under that deposition</p> <p>8 protocol, which is Docket No. 15569 in MDL -- in</p> <p>9 the MDL in this case, under Section I.2.c, "Who May</p> <p>10 be Present. Unless otherwise ordered under the</p> <p>11 Federal Rules of Civil Procedure 26(c) and subject</p> <p>12 to the terms of the protective order entered in the</p> <p>13 MDL proceedings, only the following individuals may</p> <p>14 attend depositions: counsel of record or attorneys</p> <p>15 and employees of their firms, attorneys</p> <p>16 specifically engaged by a party for purposes of the</p> <p>17 deposition, parties or in-house attorneys of a</p> <p>18 party, court reporters, videographers, the deponent</p> <p>19 and counsel for the deponent."</p> <p>20 The paragraph then goes on, but I've</p> <p>21 read the pertinent part I'd like to put on the</p> <p>22 record.</p> <p>23 In addition, under Section 3.II.a of the</p> <p>24 deposition protocol entered by his Honor in this</p>
<p style="text-align: right;">Page 403</p> <p>1 case, "Examination. Absent extraordinary</p> <p>2 circumstances, questioning related to the MDL</p> <p>3 Deposition Notice or cross-notice should be</p> <p>4 conducted by no more than two MDL examiners for all</p> <p>5 MDL Plaintiffs in the case of depositions noticed</p> <p>6 by Plaintiffs. Likewise, for depositions noticed</p> <p>7 by Defendants, questioning should be conducted by</p> <p>8 no more than two attorneys for each Defendant</p> <p>9 group."</p> <p>10 The deposition protocol then goes on,</p> <p>11 but I've read the pertinent part.</p> <p>12 For the record I would just like to note</p> <p>13 Mr. Kieffer's absence of his appearance in the MDL,</p> <p>14 the absence of anybody from his firm's appearance</p> <p>15 in this MDL and, once again, his refusal other than</p> <p>16 to say he represents the Teva Plaintiffs in this</p> <p>17 matter.</p> <p>18 I, of course, am just stating the</p> <p>19 objection for the record. Mr. Kieffer was allowed</p> <p>20 to question the witness, and I did not interrupt</p> <p>21 Mr. Kieffer's ability to do that and, in fact, the</p> <p>22 witness has now been asked questions in excess of</p> <p>23 seven hours.</p> <p>24 MR. KIEFFER: I'll briefly respond to</p>	<p style="text-align: right;">Page 404</p> <p>1 counsel's point.</p> <p>2 I did use the phrase "Teva Plaintiffs."</p> <p>3 As I explained, when we were off the record, that</p> <p>4 is probably inartful phraseology by me. We are</p> <p>5 Plaintiffs' counsel for multiple Plaintiffs</p> <p>6 nationwide, our firm. We are also associated</p> <p>7 counsel with the Skikos Crawford firm and are a</p> <p>8 part of the case against the Teva Defendants on</p> <p>9 behalf of Plaintiffs nationwide.</p> <p>10 If Teva counsel finds that to be still</p> <p>11 unsatisfactory, I am happy to engage in whatever</p> <p>12 further exchange we need, whether formal or</p> <p>13 informal.</p> <p>14 It is my understanding, and I'm happy to</p> <p>15 be corrected now or later, but it is my</p> <p>16 understanding that multiple lawyers from the Skikos</p> <p>17 Crawford firm as well as multiple law partners of</p> <p>18 my own, including Brian Madden and Tom Cartmell,</p> <p>19 have attended and taken multiple depositions in</p> <p>20 this case with a substantially similar</p> <p>21 representation as what I just made, Plaintiffs</p> <p>22 nationwide.</p> <p>23 So, to the extent that the term "counsel</p> <p>24 for the Teva Plaintiffs" caused concern, hopefully</p>

<p style="text-align: right;">Page 405</p> <p>1 I've corrected that.</p> <p>2 Anyway. That's all I've got.</p> <p>3 And I'm not sure the witness was</p> <p>4 questioned in excess of seven hours. If he was, it</p> <p>5 was by a minute or two. But anyway.</p> <p>6 Nothing further. Thank you, sir.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 THE VIDEOGRAPHER: We are off the record at</p> <p>9 5:46 p m.</p> <p>10 (Time Noted: 5:46 p m.)</p> <p>11 FURTHER DEPONENT SAITH NAUGHT.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 406</p> <p>1</p> <p>2 I, CORINNE T MARUT, C S R No 84-1968,</p> <p>3 Registered Professional Reporter and Certified</p> <p>4 Shorthand Reporter, do hereby certify:</p> <p>5 That previous to the commencement of the</p> <p>6 examination of the witness, the witness was duly</p> <p>7 sworn to testify the whole truth concerning the</p> <p>8 matters herein;</p> <p>9 That the foregoing deposition transcript</p> <p>10 was reported stenographically by me, was thereafter</p> <p>11 reduced to typewriting under my personal direction</p> <p>12 and constitutes a true record of the testimony</p> <p>13 given and the proceedings had;</p> <p>14 That the said deposition was taken</p> <p>15 before me at the time and place specified;</p> <p>16 That the reading and signing by the</p> <p>17 witness of the deposition transcript was agreed</p> <p>18 upon as stated herein;</p> <p>19 That I am not a relative or employee or</p> <p>20 attorney or counsel, nor a relative or employee of</p> <p>21 such attorney or counsel for any of the parties</p> <p>22 hereto, nor interested directly or indirectly in</p> <p>23 the outcome of this action</p> <p>24</p> <p>14 CORINNE T MARUT, Certified Reporter</p> <p>15</p> <p>16 (The foregoing certification of this</p> <p>17 transcript does not apply to any</p> <p>18 reproduction of the same by any means, unless under</p> <p>19 the direct control and/or supervision of the</p> <p>20 certifying reporter )</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 407</p> <p>1 INSTRUCTIONS TO WITNESS</p> <p>2</p> <p>3 Please read your deposition over</p> <p>4 carefully and make any necessary corrections. You</p> <p>5 should state the reason in the appropriate space on</p> <p>6 the errata sheet for any corrections that are made.</p> <p>7 After doing so, please sign the errata</p> <p>8 sheet and date it.</p> <p>9 You are signing same subject to the</p> <p>10 changes you have noted on the errata sheet, which</p> <p>11 will be attached to your deposition.</p> <p>12 It is imperative that you return the</p> <p>13 original errata sheet to the deposing attorney</p> <p>14 within thirty (30) days of receipt of the</p> <p>15 deposition transcript by you. If you fail to do</p> <p>16 so, the deposition transcript may be deemed to be</p> <p>17 accurate and may be used in court.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 408</p> <p>1 - - - - -</p> <p>2 E R R A T A</p> <p>3 - - - - -</p> <p>4 PAGE LINE CHANGE</p> <p>5 _____</p> <p>6 REASON: _____</p> <p>7 _____</p> <p>8 REASON: _____</p> <p>9 _____</p> <p>10 REASON: _____</p> <p>11 _____</p> <p>12 REASON: _____</p> <p>13 _____</p> <p>14 REASON: _____</p> <p>15 _____</p> <p>16 REASON: _____</p> <p>17 _____</p> <p>18 REASON: _____</p> <p>19 _____</p> <p>20 REASON: _____</p> <p>21 _____</p> <p>22 REASON: _____</p> <p>23 _____</p> <p>24 REASON: _____</p>

